

TOWN OF HAW RIVER, NORTH CAROLINA

CODE OF ORDINANCES

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HAW RIVER, NORTH CAROLINA

AN ORDINANCE ENACTING A CODE OF ORDINANCES FOR THE TOWN OF HAW RIVER, NORTH CAROLINA, REVISING, AMENDING, RESTATING, CODIFYING AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF THE POLITICAL SUBDIVISION DEALING WITH SUBJECTS EMBRACED IN SUCH CODE OF ORDINANCES, AND DECLARING AN EMERGENCY.

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

WHEREAS, the Acts of the Legislature of the State of North Carolina empower and authorize the town to revise, amend, restate, codify and compile any existing ordinances and all new ordinances not heretofore adopted or published and to incorporate such ordinances into one ordinance in book form; and

WHEREAS, the Haw River Town Council has authorized a general compilation, revision and codification of the ordinances of Haw River of a general and permanent nature and publication of such ordinance in book form; and

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

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAW RIVER, NORTH CAROLINA:

Section 1. The general ordinances of the Town of Haw River as revised, amended, restated, codified, and compiled in book form are hereby adopted as and shall constitute the "Code of Ordinances of the Town of Haw River, North Carolina."

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

TITLE I: GENERAL PROVISIONS

TITLE III: ADMINISTRATION

TITLE V: PUBLIC WORKS

TITLE VII: TRAFFIC CODE

TITLE IX: GENERAL REGULATIONS

TITLE XI: BUSINESS REGULATIONS

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- Section 3. All prior ordinances pertaining to the subjects treated in such Code of Ordinances shall be deemed repealed from and after the effective date of this ordinance except as they are included and reordained in whole or in part in such Code; provided, such repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance, nor shall such repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises, or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, vacating or setting the boundaries of streets or other public places; nor shall such repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by the Code.
- Section 4. Such Code shall be deemed published as of the day of its adoption and approval by the Town Council of the Town of Haw River. The town is hereby authorized and ordered to file a copy of such Code of Ordinances in the Office of the Clerk.
- Section 5. Such Code shall be in full force and effect as provided in Section 6, and such Code shall be presumptive evidence in all courts and places of the ordinance and all provisions, sections, penalties and regulations therein contained and of the date of passage, and that the same is property signed, attested, recorded, and approved and that any public hearings and notices thereof as required by law have been given.
- Section 6. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this town, and shall take effect at the earliest date provided by law.

PASSED AND ADOPTED by the Town Council of the Town of Haw River, North Carolina on this 2nd day of April, 2001.

ATTEST:

/s/

Misty Hagood, Town Clerk

/s/

Linda H. Massey, Mayor

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES
FOR THE TOWN OF HAW RIVER AND DECLARING AN EMERGENCY

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the attached supplement to the Code of Ordinances of the Town of Haw River, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the Town of Haw River; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the laws of the State of North Carolina; and

WHEREAS, it is the intent of the Town of Haw River Council to accept these updated sections in accordance with the changes of the laws of the State of North Carolina; and

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

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAW RIVER:

- Section 1. That the attached supplement to the Code of Ordinances of the Town of Haw River as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.
- Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the Town Council and the Clerk of the Town of Haw River is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Offices of the Town Council, the Town Manager, and the Town Clerk.
- Section 3. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of the Town of Haw River, and shall take effect at the earliest date provided by law.

PASSED AND ADOPTED by the Town Council of the Town of Haw River on this the 6th day of August, 2007.

Haw River - Adopting Ordinance

_____/s/
Mayor
Town of Haw River

ATTEST:

_____/s/
Town Clerk

APPROVED AS TO FORM: Mitchell M. McEntire _____/s/
Mitchell M. McEntire, Town Attorney

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CHARTER OF THE TOWN OF HAW RIVER

HAW RIVER, NORTH CAROLINA

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THE CHARTER OF THE TOWN OF HAW RIVER (Session Laws of 1973, Chapter 234)

SEC. 1 INCORPORATION.

The inhabitants in the area hereinafter described are hereby constituted a body politic and corporate under the name of the "Town of Haw River", and are hereby vested with all the powers, rights, privileges, immunities, and authority granted by the Constitution and general laws of this State.

SEC. 2 CORPORATE BOUNDARIES.

The corporate boundaries of the Town of Haw River shall be:

Beginning at a monument located 200 feet east of the center of Secondary Road No. 1928 and 400 feet north of the center of U.S. Route No. 70, and running thence in an easterly direction along a line parallel with and 400 feet north of the center of U.S. Route No. 70 approximately 3,590 feet to a monument in the center of Back Creek; thence down the center of Back Creek, as it meanders in a southerly direction, approximately 2,360 feet to the center of the Southern Railway Company bridge crossing said Creek; thence westerly along the center of the main track of the Southern Railway Company 8,640 feet to a monument; thence South 2° 35' West 1,000 feet to a monument; thence westerly, along a line parallel with and 1,000 feet south of the center of the Southern Railway Company main track, a distance of approximately 4,030 feet to a monument 300 feet southeast of the center of N. C. Route No. 49; thence parallel with and 300 feet southeast of the center of N. C. Route No. 49 South 47° 20' West 620 feet to a monument; thence South 0° 40' East approximately 400 feet to a monument 230 feet south of the center of Secondary Road No. 1942; thence parallel with and 230 feet south of Secondary Road No. 1942 South 89° 20' West approximately 520 feet to a monument 300 feet southeast of the center of N. C. Route No. 49; thence North 23° 40' West 2,154.5 feet to a monument; thence South 84° 30' West 58.4 feet to a monument in Hanover Road; thence South 85° 00' West 149 feet to a monument in Hanover Road; thence South 42° 45' West 108.5 feet to a monument in Hanover Road; thence South 52° 15' West 208 feet to a monument in Hanover Road; thence North 12° 45' West 359.5 feet to a monument; thence North 1° 45' East 385.0 feet to a monument; thence North 84° 00' West 31 feet to a monument; thence North 4° 45' East 617.0 feet to a monument in U.S. Route No. 70; thence North 23° 40' West 12.0 feet to a monument in the center of U.S. Route No. 70; thence North 72° 00' West 442.4 feet to a monument in the center of U.S. Route No. 70; thence North 0° 16' East 588.25 feet to a monument; thence North 73° 22' East 301.6 feet to a monument; thence North 85° 47' East 305.7 feet to a monument; thence South 6° 47' West 177.2 feet to a monument; thence South 7° 18' East 111.8 feet to a monument; thence South 28° 25' East 75.7 feet to a monument; thence North 23° 50' East 293.6 feet to a monument near the western edge of Quarry Street; thence North 73° 50' East approximately 600 feet crossing said Quarry Street to the center of Cemetery Street; thence along the center of Cemetery Street, South 85° 08' East 1001.73 feet to a point in the center of Cemetery Street; thence North 4° 34' East 20 feet to an iron stake, a corner between P. C. Beatty's property and City of Burlington property; thence along a line between the said Beatty's property and City of Burlington property, North 4° 34' East 289.51 feet to an iron stake, a corner with P. C. Beatty in the City of Burlington property line; thence along a line between the City of Burlington and P. C. Beatty, North 71° 23' East 544.5 feet to an iron stake; thence along a line between the City of Burlington and Mrs. K. B. Williamson's property, North 19° 22' West 70 feet to a point in the Haw River Sanitary District; thence with the Haw River Sanitary District along a line parallel with and 700 feet North of the center of Boundary Street, North 73° 50' East approximately 4617 feet to a monument in the center of Roma Road; thence with the center of Roma Road North 17° 35' West 290.0 feet to a monument corner with the lands of Matthew O. Dawson; thence South 71° 03' West 230.0 feet to a monument; thence along a line parallel with and 230 feet west of the center of Roma Road North 17° 35' West approximately 800 feet to a monument in the center of Hopedale Road; thence North 4° 35' West 230 feet to a monument; thence along a line parallel with and 230 feet north of the center of Hopedale Road North 35° 25' East approximately 1,180 feet to a monument; thence North 14° 12' 10" East

approximately 360 feet to a monument in the center of Sherri Drive; thence along the center of Sherri Drive South 77° 47' East 250 feet to a monument 230 feet from the center of Keck Road; thence along a line 230 feet west of and parallel with the center of Keck Road the following courses and distances: North 2° 40' East 687.0 feet to a monument; North 2° 38' East 604 feet to a monument; North 4° 29' East approximately 1,359 feet to a monument in the center of Center Street; thence North 3° 25' West 550 feet to a monument; thence along a line parallel with and 550 feet north of Center Street North 86° 35' East approximately 1,000 feet to a monument 230 feet east of the center of N. C. Route No. 49; thence along a line parallel with and 230 feet east of the center of N. C. Route No. 49 the following courses and distances: South 3° 25' East 2,097 feet to a monument; South 3° 22' East 1,663.25 feet to a monument; thence South 62° 45' East approximately 370 feet to a monument in the center of Secondary Road No. 1927, the said monument is further identified as being 720 feet from the center of Secondary Road No. 1928 as measured along the center of the said Road No. 1927; thence South 2° 00' East approximately 720 feet to a monument 170 feet northeast of the center of Secondary Road No. 1925; thence parallel with and 170 feet northeast of the center of Secondary Road No. 1925 South 31° 00' East approximately 690 feet to a monument 170 feet north of the center of Secondary Road No. 1742; thence parallel with and 170 feet north of the center of Secondary Road No. 1742 South 84° 30' East 610 feet to a monument; thence South 15° 30' West approximately 1,420 feet to the point of the BEGINNING and containing 1,016.5 Acres more or less, the same being 1.59 square miles.

SEC. 3 COUNCIL-MANAGER FORM OF GOVERNMENT.

(A) Pursuant to G.S. §§ 160A-101 and 160A-102, the Charter of the Town of Haw River, as set forth in Chapter 234 of the 1973 Session Laws of North Carolina, as amended, is hereby further amended to provide that the town shall operate under the Council-Manager form of government in accordance with G.S. Ch. 160A, Art. 7, part 2 and any charter provisions not in conflict therewith. The Council shall consist of the Mayor and four members to be elected as hereinafter provided.

Beginning with the regular municipal election to be held in 1975, Councilmen shall be elected to serve staggered terms as herein provided. The two Councilmen receiving the highest number of votes shall be elected for terms of four years, and the two candidates receiving the next highest number of votes shall be elected for terms of two years. Thereafter, the terms of the members expire, their successors shall be elected for terms of four years.

The Mayor of the Town of Haw River shall be elected by popular vote in future municipal elections beginning with the municipal election to be held in November, 1983, and continuing with successive municipal elections every two years until November, 2011, at such time the term will be extended to four-year terms thereafter.

The Mayor shall vote on all matters before the Council.

(B) The Mayor shall appoint a Council Advocate to each department of the Town at the first regular meeting of the Council of every calendar year. This Council Advocate will assist the Manager and department head in presenting issues and information to the Council when necessary.

(C) The Town Clerk shall cause a notice to be duly published, stating that an ordinance amending the Charter to adopt the Council-Manager form of government has been adopted subject to any referendum petitioned for and conducted pursuant to G.S. § 160A-103, this section shall be in force and effect from and after April 5, 2010.

(Amended 2-27-74; amended 4-9-80; amended 11-2-82; amended 1-3-96; amended 4-5-10)

SEC. 4 CONDUCT AND METHOD OF ELECTION.

The elections for municipal officers in the Town of Haw River shall be nonpartisan and decided by a simple plurality. No primary election shall be held. The elections shall be held and conducted by the Alamance County board of elections, and except as otherwise provided herein, shall be held and conducted in accordance with Articles 23 and 24 of Chapter 163 of the General Statutes.

SEC. 5 ELECTION OF TOWN COUNCIL; VACANCIES.

A regular municipal election shall be held on Tuesday after the first Monday in November, 1973, and every two years thereafter for the election of the town councilmen. Vacancies occurring for any reason in the council shall be filled for the unexpired term by appointment by the remaining members of the council. A vacancy in the office of mayor shall be filled for the unexpired term by appointment by the council.

SEC. 6 INITIAL COUNCILMEMBERS.

The initial members of the town council shall be those persons presently serving as the board of commissioners of the Haw River sanitary district. They shall serve until their successors are elected and qualified pursuant to this act. They shall appoint one of their members as mayor, who shall serve until his successor is appointed under this act.

SEC. 7 TIME AT WHICH INCORPORATION EFFECTIVE.

On June 1, 1973, at 12:00 noon, the Haw River sanitary district shall cease to exist as a body politic and corporate, and the Town of Haw River shall simultaneously be incorporated, and at that time all of the district's assets and liabilities shall be transferred to the Town of Haw River as provided in G.S. 130-156.3.

Editor's Note:

This statute has since been repealed

SEC. 8 TRANSFER OF ASSETS, LIABILITIES TO TOWN.

The Haw River sanitary district shall take all actions necessary to effect this transfer of the assets and liabilities of the district to the Town of Haw River by April 1, 1973.

SEC. 9 TAXES.

From and after June 1, 1973, the citizens and property in the Town of Haw River shall be subject to municipal taxes levied for the fiscal year beginning July 1, 1973, and the Town shall obtain from the County a record of property in the area herein incorporated which was listed for taxes as of January 1, 1973, and the businesses in the Town shall be liable for privilege licensee tax from the date of the privilege license tax ordinance.

SEC. 10 SPECIAL ELECTION TO DETERMINE WHETHER AREA TO BE INCORPORATED.

The Alamance County board of elections shall call and conduct a special election on Tuesday after the third Monday in May, 1973, to submit to the qualified voters in the area described in Section 2 of this act, the question whether such area shall be incorporated as a municipal corporation known as the Town of Haw River.

If the board of elections deems it necessary, a new registration of voters within the area may be held. The registration books for this special election shall remain open through Friday preceding the election. The election shall be conducted in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes and the provisions of this act.

The board of elections shall, at least 20 days before the registration period closes, cause public notice of the election to be posted at several public places in the area to be incorporated, and such notice shall state the date of the election, the polling places, the hours the polls will be open, the names of the registrars and judges of elections, the date, places and hours of registration, and the purpose of the election. The same notice shall be published once a week for two weeks, beginning 20 days before the registration closes, in a newspaper having general circulation in the Haw River sanitary district.

In the special election, the form of the ballot shall be that set out in G.S. 130-156.3 [Editor's Note: This statute has since been repealed]. If a majority of those voting favor incorporation of the Town of Haw River, then Sections 1 through 9 of this act shall be in full force and effect. If a majority of those voting vote against incorporation of the Town of Haw River, then this act shall have no force and effect.

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

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§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the municipality of Haw River shall be designated as the *Code of Haw River, North Carolina*, and may be so cited.

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

COUNTY. Alamance County, North Carolina.

MAY. The act referred to is permissive.

MONTH. A calendar month.

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

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

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

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

SHALL. The act referred to is mandatory.

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

STATE. The State of North Carolina.

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

TOWN, MUNICIPAL CORPORATION, or MUNICIPALITY. The Town of Haw River, North Carolina.

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

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 RULES OF INTERPRETATION.

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

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

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

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

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

§ 10.07 SEVERABILITY.

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

§ 10.08 REFERENCE TO OTHER SECTIONS.

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

§ 10.09 REFERENCE TO OFFICES.

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

§ 10.10 ERRORS AND OMISSIONS.

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

§ 10.11 OFFICIAL TIME.

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

§ 10.12 REASONABLE TIME; COMPUTING TIME.

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

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

§ 10.13 ORDINANCES REPEALED.

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

§ 10.14 ORDINANCES UNAFFECTED.

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

§ 10.15 EFFECTIVE DATE OF ORDINANCES.

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

§ 10.16 REPEAL OR MODIFICATION OF ORDINANCES.

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

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

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

§ 10.17 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section containing the desired amendment substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of such chapter or section. In addition to such indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.18 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any, are listed following the text of the code section. *Example:* (Ord. 10, passed 5-13-60; Am. Ord. 15, passed 1-1-70; Am. Ord. 20, passed 1-1-80; Am. Ord. 25, passed 1-1-85)

(B) (1) A statutory cite included in the history indicates that the text of the section reads substantially the same as the statute. *Example:* (G.S. § 160A-11) (Ord. 10, passed 1-17-80; Am. Ord. 20, passed 1-1-85).

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

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

*For provisions concerning the inspection of public records, see
G.S. §§ 139-1 et seq.*

(C) If a section of this code is derived from the previous code of ordinances of the town published in 1987 and subsequently amended, the 1987 code section number shall be indicated in the history by “(‘87 Code, § ____).”

§ 10.99 GENERAL PENALTY.

Any person, firm, or corporation violating any of the provisions of any section or subsection of this code of ordinances for which no other penalty is provided, or failing or neglecting or refusing to comply with same, shall, upon conviction, be guilty of a Class 3 misdemeanor and subject to a fine not to exceed \$500 or imprisonment not to exceed 20 days, and each day that any of the provisions of this code of ordinances are violated shall constitute a separate offense.

(G.S. § 14-4(a)) (Am. Ord. passed 8-2-10)

Statutory reference:

For provisions concerning enforcement of ordinances, see G.S. § 160A-175

TITLE III: ADMINISTRATION

Chapter

- 30. TOWN COUNCIL**
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CHAPTER 30: TOWN COUNCIL

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Cross-reference:

Pursuant to G.S. §§ 160A-101 and 160A-102, the Charter of the Town of Haw River, as set forth in Chapter 234 of the 1973 Session Laws of North Carolina, as amended, is hereby further amended to provide that the town shall operate under the Council-Manager form of government in accordance with G.S. Ch. 160A, Art. 7, part 2 and any charter provisions not in conflict therewith, see Charter § 3

MEETINGS

§ 30.01 REGULAR AND SPECIAL MEETING.

(A) The Town Council shall hold regular monthly meetings on the first Monday of each month at 7:30 p.m. in the town hall unless otherwise designated by the Town Council.

(B) The Mayor, the Mayor Pro Tempore, or any two members of the Town Council may at any time call a special Town Council meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. The notice shall be delivered to the Mayor and each Council Member or left at his or her usual dwelling place at least six hours before the meeting. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or have signed a written waiver of notice. A person or persons calling a special meeting of Town Council shall also comply with the notice requirements of G.S. Ch. 143, Art. 33C.

(1) Special meetings may be held at any time when the Mayor and all members of the Town Council are present and consent thereto, or when those not present have signed a written waiver of notice.

(2) During any regular meeting or any duly-called special meeting, the Town Council may call or schedule a special meeting, provided the motion or resolution calling or scheduling any special meeting shall specify the time, place, and purpose or purposes of the meeting and shall be adopted during an open session.

(C) Any regular or duly-called special meeting may be recessed to reconvene at a time and place certain, or may be adjourned to reconvene at a time and place certain, by the Town Council.

(G.S. § 160A-71 (b)) ('87 Code, § 30.01) (Ord. passed 1-7-74)

§ 30.02 QUORUM.

(A) A majority of the actual membership of the Town Council plus the Mayor, excluding vacant seats, shall constitute a quorum. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

(G.S. § 160A-74)

(B) If a quorum shall fail to attend any regular or special meeting of the Town Council or if, for any reason, the meeting shall fail to complete transaction of the business before the meeting, the meeting may be adjourned to any date prior to the next regular meeting agreed upon by a majority of the members present.

('87 Code, § 30.02) (Ord. passed 1-7-74)

§ 30.03 PRESIDING OFFICER.

Town Council meetings shall be public and the Mayor, if present, shall preside. In the absence of the Mayor, the Mayor Pro Tempore of the Town Council shall preside. In the absence of both, the Town Council may elect from its members a temporary chairman to preside in such absence.

('87 Code, § 30.03) (Ord. passed 1-7-74)

Statutory reference:

Presiding Officer, see G.S. §§ 160A-69 and 160A-70

§ 30.04 RULES OF PROCEDURE.

Except as otherwise provided by ordinance, the procedure of the Town Council shall be governed by the latest edition of *Robert's Rules of Order*.

('87 Code, § 30.04) (Ord. passed 1-7-74)

§ 30.05 ORDER OF BUSINESS.

(A) At all regular and special meetings of the Town Council, the following shall be the order of business:

(1) Reading and approval of the minutes of the last regular and special meetings, if any, unless otherwise dispensed with by unanimous consent.

(2) Reports of special committees.

(3) Reports of officers.

(4) Communications and petitions.

(5) Motions, resolutions, and ordinances.

(B) If the Town Council directs any matter to be the special business of a future meeting, the same shall have precedence over all other business arising at the meeting. Any question discussed at a previous meeting and left open may be taken up at any time at any regular meeting at the request of a majority of the members present.

('87 Code, § 30.05) (Ord. passed 1-7-74)

§ 30.06 MOTIONS HAVING PRECEDENCE.

(A) When a question is under consideration, no motion shall be received, except as follows:

(1) To lie on the table.

(2) To postpone to a time certain.

(3) To postpone indefinitely.

(4) To refer to a committee.

(5) To amend.

(6) To strike out or to insert.

(7) To divide.

(B) Motions for any of these purposes shall have precedence in the order so named.
(‘87 Code, § 30.06) (Ord. passed 1-7-74)

§ 30.07 PREVIOUS QUESTION.

The previous question may be called at any time by a majority of the Council Members present.
(‘87 Code, § 30.07) (Ord. passed 1-7-74)

§ 30.08 CALL FOR VOTE.

Pursuant to G.S. § 160A-72, the ayes and nays upon any question shall be taken upon the request of any Council Member.
(‘87 Code, § 30.08) (Ord. passed 1-7-74)

§ 30.09 MAYOR TO VOTE.

The Mayor shall vote on all matters before the Town Council, pursuant to section 3 of the Town Charter and G.S. § 160A-101 (8).
(‘87 Code, § 30.09)

§ 30.10 MOTION TO ADJOURN.

A motion to adjourn shall always be in order and shall be decided without debate.
(‘87 Code, § 30.10) (Ord. passed 1-7-74)

§ 30.11 COMMITTEES.

The Mayor and Council Members may create those committees of the Town Council for special purposes as they deem best.
(‘87 Code, § 30.11) (Ord. passed 1-7-74)

ORDINANCES

§ 30.25 EFFECTIVE DATE.

All ordinances shall be effective upon their adoption except ordinances specifying some other effective date or ordinances required by state law to become effective only after having met specific date requirements.

('87 Code, § 30.20) (Ord. passed 1-7-74)

§ 30.26 ORDINANCES CONFINED TO ONE SUBJECT.

All ordinances shall be confined to one subject except budget ordinances, which shall be confined to the subject of budget matters.

('87 Code, § 30.21) (Ord. passed 1-7-74)

§ 30.27 OFFICIAL COPY.

A true copy of an ordinance which has been duly enacted by the Town Council, signed by the Mayor, and attested to by the Town Administrator/Clerk shall be known as an official copy of any ordinance of the town. All ordinances or a true copy thereof shall be inserted in this code in the proper chapter.

('87 Code, § 30.22) (Ord. passed 1-7-74)

CHAPTER 31: TOWN OFFICIALS

Section

- 31.01 Mayor
- 31.02 Town Manager
- 31.03 Town Clerk
- 31.04 Town Attorney
- 31.05 Town Tax Collector
- 31.06 Budget Officer
- 31.07 Finance Officer
- 31.08 Other officials
- 31.09 Bond

§ 31.01 MAYOR.

The citizens of the Town of Haw River shall elect the Mayor and the Town Council may adopt or amend a job description for the Mayor.

(Am. Ord. passed 5-3-10)

Cross-reference:

Pursuant to G.S. §§ 160A-101 and 160A-102, the Charter of the Town of Haw River, as set forth in Chapter 234 of the 1973 Session Laws of North Carolina, as amended, is hereby further amended to provide that the town shall operate under the Council-Manager form of government in accordance with G.S. Ch. 160A, Art. 7, part 2 and any charter provisions not in conflict therewith, see Charter § 3

§ 31.02 TOWN MANAGER.

(A) *Appointment.* The Town Council may appoint a Town Clerk and a Town Manager to serve at its pleasure. The Town Manager shall be appointed solely on the basis of his or her executive and administrative qualifications. The Town Manager need not be a resident of the city or state at the time of appointment. The office of Town Manager may be held concurrently with other appointive (but not elective) offices pursuant to Article VI, Section 9, of the state constitution. (G.S. § 160A-147)

(B) *Powers and duties.* The Town Manager shall be the chief administrator of the town. The Town Manager shall be responsible to the Town Council for administering all municipal affairs placed in his or her charge by them and shall:

(1) Appoint and suspend or remove all city officers and employees not elected by the people, and whose appointment or removal is not otherwise provided for by law, except the Town Attorney, in accordance with such general personnel rules, regulations, policies, or ordinances as the Town Council may adopt.

(2) Direct and supervise the administration of all departments, offices, and agencies of the town, subject to the general direction and control of the Town Council, except as otherwise provided by law. As part of these duties, the Town Manager shall serve as Budget Officer and Finance Officer for the town.

(3) Attend all meetings of the Town Council and recommend any measures that he or she deems expedient.

(4) See that all laws of the state, the town charter, and the ordinances, resolutions, and regulations of the Town Council are faithfully executed within the town.

(5) Prepare and submit the annual budget and capital program to the Town Council.

(6) Submit to the Finance and Administration Board and Town Council and make available to the public a complete report on the finances and administrative activities of the town monthly and as of the end of the fiscal year, including an annual analysis of purchases by vendor, annual review of all contracts, leases and insurance coverages, response to the Town Auditor's management letter comments, and annual review of progress toward annual goals.

(7) Make other reports that the Town Council may require concerning the operations of town departments, offices, and agencies subject to his or her direction and control.

(8) Perform any other duties that may be required or authorized by the Town Council.
(G.S. § 160A-148) (Am. Ord. passed 5-3-10)

§ 31.03 TOWN CLERK.

The Town Clerk shall maintain all records as required by state law, post copies of all agenda, minutes, budgets, and financial reports, plus other important notices and documents as the Council may authorize, and perform such other duties as the Town Council may be required from time to time.
(Am. Ord. passed 5-3-10)

Statutory reference:

Establishment of office, G.S. § 160A-171

§ 31.04 TOWN ATTORNEY.

(A) The Town Council shall appoint a Town Attorney to serve at its pleasure and to be its legal advisor.

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

(1) Prosecute for and defend suits against the town.

(2) Advise the Mayor, Town Council, or any other officer of the town in regard to matters connected with the town's business.

(3) Attend meetings of the Town Council when requested to do so by them.

(4) Draw such deeds, contracts, bonds, notes, and other legal papers as may be required for the proper conduct of the town's business.

(5) Draft all ordinances.

(6) Approve all ordinances as to form before their introduction.

(7) Perform such other duties as may be assigned to him or her by state law or by the Town Council acting pursuant to state law.

('87 Code, § 31.03) (Am. Ord. passed 5-3-10)

Statutory reference:

Town Attorney, see G.S. § 160A-173

§ 31.05 TOWN TAX COLLECTOR.

(A) *Appointment and term.* The Town Council shall appoint a Tax Collector to serve for a term to be determined by the Town Council and until his or her successor has been appointed and qualified. The Town Council may remove the Tax Collector from office during his or her term for good cause after giving him or her notice in writing and an opportunity to appear and be heard at a public session of the Town Council. No hearing shall be required, however, if the Tax Collector is removed for failing to meet the prerequisites prescribed by G.S. § 105-352(b) for delivery of the tax receipts. Unless otherwise provided by G.S. § 105-373, whenever any vacancy occurs in this office, the Town Council shall appoint a qualified person to serve as Tax Collector for the period of the unexpired term.

(B) *Qualifications.* The Town Council shall appoint as Tax Collector a person of character and integrity whose experience in business and collection work is satisfactory to the Town Council.

(C) *Bond.* No Tax Collector shall be allowed to begin his or her duties until he or she has furnished bond conditioned upon his or her honesty and faithful performance in an amount as the Town Council may prescribe. A Tax Collector shall not be permitted to collect any taxes not covered by his or her bond, nor shall a Tax Collector be permitted to continue collecting taxes after his or her bond has expired without renewal.

(D) *Compensation.* The compensation and expense allowances of the Tax Collector shall be fixed by the Town Council.

(E) *Alternative to separate office of Tax Collector.* Pursuant to the North Carolina Constitution, Art. VI, Sec. 9, the office of Tax Collector is hereby declared to be an office that may be held concurrently with any appointive or elective office other than those hereinafter designated, and the Town Council may appoint as Tax Collector any appointive or elective officer who meets the personal and bonding requirements established by this section. However, a member of the Town Council may not be appointed Tax Collector, nor may the duties of the office be conferred upon him or her. Further, the Town Administrator/Clerk may not be appointed Tax Collector, nor may the duties of the office of Tax Collector be conferred upon him or her, except with the written permission of the state.

(F) *Oath.* Every Tax Collector shall take and subscribe the oath set out in G.S. § 105-349(g), and file it with the Town Clerk.

(G) *General duties of the Tax Collector.* The Tax Collector shall perform those duties set forth in G.S. § 105-350.
(‘87 Code, § 31.04) (Am. Ord. passed 5-3-10)

§ 31.06 BUDGET OFFICER.

The Town Manager shall fulfill the duties of the Budget Officer, as set forth in G.S. § 159-9.
(‘87 Code, § 31.05) (Am. Ord. passed 5-3-10)

§ 31.07 FINANCE OFFICER.

The Town Manager shall fulfill the duties of the Finance Officer, as set forth in G.S. § 159-24.
(‘87 Code, § 31.06) (Am. Ord. passed 5-3-10)

§ 31.08 OTHER OFFICIALS.

Those other officers and employees that are deemed necessary shall be appointed by the Town Manager. All officers and employees shall serve at the pleasure of the Town Manager and shall receive compensation as from time to time may be prescribed by the Town Council.

('87 Code, § 31.07) (Ord. passed 1-7-74; Am. Ord. passed 5-3-10)

§ 31.09 BOND.

The Town Manager and other officers and employees required by the Town Council shall, before entering upon their duties, post bond in amounts specified by the Town Council. All bond premiums shall be paid from town funds. When two offices are combined, only one bond shall be required.

('87 Code, § 31.08) (Ord. passed 1-7-74; Am. Ord. passed 5-3-10)

CHAPTER 32: DEPARTMENTS, BOARDS, AND COMMISSIONS

Section

Beautification Commission

- 32.01 Establishment; members
- 32.02 Compensation
- 32.03 Powers and duties

Board of Adjustment

- 32.15 Creation; members
- 32.16 Organization; officers; meetings
- 32.17 Powers and duties

Building Inspection Department

- 32.30 Establishment

Planning Board

- 32.45 Creation
- 32.46 Membership; term; removal
- 32.47 Organization and rules
- 32.48 Duties and powers

Recreation and Parks Advisory Committee

- 32.60 Title
- 32.61 Membership
- 32.62 Business year
- 32.63 Powers and duties
- 32.64 Officers
- 32.65 Meetings
- 32.66 Subcommittees

Cross reference:

Fire and Police Departments, see Ch. 33

BEAUTIFICATION COMMISSION**§ 32.01 ESTABLISHMENT; MEMBERS.**

(A) By virtue of the authority granted by G.S. § 160A-451 et seq., a commission is hereby created to be known as the Haw River Beautification Commission.

(B) The Beautification Commission shall consist of eight members to be appointed by the Town Council. The members shall be residents of the area of the town's planning and zoning jurisdiction at the time of their appointment. Initially, the Town Council shall appoint four members to serve for a term of two years and four members to serve for a term of one year. Thereafter, the Town Council shall make appointments for terms of two years, except in those instances where the Town Council shall make interim appointments to fill vacancies for unexpired portions of terms of the members of the Beautification Commission. The Town Council shall give appropriate priority in the appointments with a view to maintaining on the Beautification Commission a majority of members who have had special training or experience in a design field, such as architecture, landscape design, horticulture, city planning, or a related field. Membership on the Beautification Commission is declared to be an office that may be held concurrently with any other elective or appointive office.

('87 Code, § 32.001) (Ord. passed 8-7-78)

§ 32.02 COMPENSATION.

Members of the Beautification Commission may be reimbursed for actual expenses incidental to the performance of their duties within the limits of any funds available to the Beautification Commission, but shall otherwise serve without pay.

('87 Code, § 32.002) (Ord. passed 8-7-78)

§ 32.03 POWERS AND DUTIES.

(A) *General powers and duties.* The Beautification Commission, upon its appointment, shall make careful study of the visual problems, make any plans, and carry out any programs that will, in accordance with the powers herein granted, enhance and improve the visual quality and aesthetic characteristics of the town. To this end, the Town Council may confer upon the Beautification Commission the following powers and duties:

(1) Initiate, promote, and assist in the implementation of programs of general community beautification in the town.

(2) Seek to coordinate the activities of individuals, agencies, and organizations, public and private, whose plans, activities, and programs bear upon the appearance of the town.

(3) Provide leadership and guidance in matters of area or community design and appearance to individuals, public and private organizations, and agencies.

(4) Make studies of the visual characteristics and problems of the town, including surveys and inventories of an appropriate nature, and recommend standards and policies of design for the entire area, any portion or neighborhood thereof, or any project to be undertaken.

(5) Prepare both general and specific plans for the improved appearance of the town. These plans may include the entire area or any part thereof and may include private as well as public property. The plans shall set forth desirable standards and goals for the aesthetic enhancement of the town or any part thereof within its area of planning and zoning jurisdiction, including public ways and areas, open spaces, and public and private buildings and projects.

(6) Participate in any way deemed appropriate by the Town Council and specified in this subchapter in the implementation of its plans. To this end, the Town Council includes in this section the following powers:

(a) To request from the proper officials of any public agency or body, including agencies of the state and its political subdivisions, its plans for public buildings, facilities, or projects to be located within the town or its area of planning and zoning jurisdiction of the town or county.

(b) To review these plans and to make recommendations regarding their aesthetic suitability to the appropriate agency or to the Town Council. All plans shall be reviewed by the Beautification Commission in a prompt and expeditious manner, and all recommendations of the Beautification Commission with regard to any public project shall be made in writing. Copies of the recommendations shall be transmitted promptly to the Town Council and to the appropriate agency.

(c) To formulate and recommend to the Town Council the adoption or amendment of ordinances, including zoning ordinances, subdivision regulations, and other local ordinances regulating the use of property, that will in the opinion of the Beautification Commission serve to enhance the appearance of the town and surrounding areas.

(d) To direct the attention of town or county officials to needed enforcement of any ordinance that may in any way affect the appearance of the town or county.

(e) To seek voluntary adherence to the standards and policies of its plans.

(f) To enter, in the performance of its official duties and at reasonable times, upon private lands and make examinations or surveys.

(g) To promote public interest in and an understanding of its recommendations, studies, and plans, and to that end to prepare, publish, and distribute to the public those studies and reports as will in the opinion of the Beautification Commission advance the cause of improved town appearance.

(h) To conduct public meetings and hearings, giving reasonable notice to the public thereof.

(G.S. § 160A-452)

(B) *Receipt and expenditure of funds.* The Beautification Commission may receive contributions from private agencies, foundations, organizations, individuals, the state or federal government, or any other source, in addition to any sums appropriated for its use by the Town Council. It may accept and disburse these funds for any purpose within the scope of its authority as herein specified. All sums appropriated by the Town Council to further the work and purposes of the Beautification Commission are deemed to be for a public purpose. (G.S. § 160A-455)

(C) *Staff or technical services.* The Beautification Commission may recommend to the Town Council suitable arrangements for the procurement or provision of staff or technical services for the Beautification Commission, and the Town Council may appropriate that amount as it deems necessary to carry out the purposes for which the Beautification Commission was created. The Beautification Commission may establish an advisory council or other committees. (G.S. § 160A-453)

(D) *Annual report.* The Beautification Commission shall, no later than April 15 of each year, submit to the Town Council a written report of its activities, a statement of its expenditures to date for the current fiscal year, and its requested budget for the next fiscal year. All accounts and funds of the Beautification Commission shall be administered substantially in accordance with the requirements of the Municipal Fiscal Control Act. (G.S. § 160A-454)

(‘87 Code, § 32.003) (Ord. passed 8-7-78)

BOARD OF ADJUSTMENT

§ 32.15 CREATION; MEMBERS.

(A) There shall be and is hereby created a Board of Adjustment consisting of five members.

(B) Five members shall be citizens and residents of the town and shall be appointed by the Town Council in accordance with G.S. § 160A-362.

(C) The members of the Board of Adjustment shall receive no compensation for their services.

(D) The term of office of the members of the Board of Adjustment shall be for overlapping terms of three years. Since the Haw River Town Council has appointed itself as the Town of Haw River Board of Adjustment, members of the Council, upon being sworn in to serve a term on the Town Council, become immediately eligible to be appointed to the Board of Adjustment. Such appointments shall be for three-year terms, and a reappointment of one year to complete the four-year term to which the Town

Council is elected. Nothing herein shall be construed as to forbid any member from being reappointed. Vacancies occurring for any reason other than expiration of term shall be filled as soon as is reasonably possible after the vacancy occurs by the proper board making the appointment. Such appointment shall be for the unexpired term, or for a longer term up to three years if needed to prevent the termination of four or more terms in the same year. Members of the Board of Adjustment may be removed for cause by the Town Council upon written charges and after public hearing.

('87 Code, § 32.015) (Ord. passed 4-5-76; Am. Ord. passed 8-5-96; Am. Ord. passed - -15; Am. Ord. passed 12-5-16)

§ 32.16 ORGANIZATION; OFFICERS; MEETINGS.

The Board of Adjustment shall elect a Chairperson and a Vice-Chairperson, each of whom shall serve for one year or until he or she is reelected or his or her successor is elected. The Board of Adjustment shall appoint a Secretary who may be an officer or an employee of the town. It shall adopt rules for the conduct of its business. Meetings shall be held at the call of the Chairperson and at such other times as the Board of Adjustment may determine. The Chairperson or, in his or her absence, the Vice-Chairperson may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board of Adjustment shall be open to the public. The Secretary shall keep minutes of the proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating this fact. The Board of Adjustment shall keep records of the examinations and other official actions, all of which shall be filed immediately in the Office of the Board of Adjustment and shall be a public record.

('87 Code, § 32.016) (Ord. passed 4-5-76; Am. Ord. passed 12-5-16)

§ 32.17 POWERS AND DUTIES.

(A) The Board of Adjustment shall have the following powers and duties:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning regulations.

(2) (a) To authorize upon appeal in specific cases those variances from the terms of the zoning regulations as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the zoning regulations will, in an individual case, result in unnecessary hardship so that the spirit of the zoning regulations shall be observed, public safety and welfare secured, and substantial justice done, No variance shall be granted in any individual case unless the Board of Adjustment finds unnecessary hardship based upon a showing that all of the following conditions exist:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district;

2. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents in the district in which the property is located;

3. A literal interpretation of the provisions of this subchapter would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located;

4. The requested variance will be in harmony with purpose and intent of this subchapter and will not be injurious to the neighborhood or to the general welfare;

5. The special circumstances are not the result of actions by the applicant, excluding the act of purchasing property or properties with knowledge that circumstances exist that may justify the grant of a variance; and

6. The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

(b) No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this section.

(B) In exercising the above mentioned powers, the Board of Adjustment may, in conformity with the provisions of the zoning regulations, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination made by the zoning enforcement officer, and to that end shall have the powers of the zoning enforcement officer from whom the appeal is taken, and may issue or direct the issuance of a permit. A simple majority vote of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of an administrative official charged with the enforcement of the zoning regulations, or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance, including special and conditional uses. Matters concerning a variance request must meet a super-majority vote of four-fifths or greater from the Board of Adjustment.

(C) Appeals to the Board of Adjustment may be taken by any person aggrieved or by an officer, department, board, or bureau of the town affected by any decision of the zoning enforcement officer. Such appeals shall be taken within not more than 60 days by filing with the zoning enforcement officer and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The zoning enforcement officer shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal or other matter referred to it, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party in interest may appear in person or by agent or attorney.

(D) An appeal stays all legal proceedings in furtherance of the action appealed from, unless the zoning enforcement officer from whom the appeal is taken certifies to the Board of Adjustment after the

notice of appeal shall have been filed with him or her that, by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application.

(E) Any person or persons jointly or individually aggrieved by any decision of the Board of Adjustment, or any taxpayer, any officer, department, board, or bureau of the town shall have recourse to the courts as provided by law.

(‘87 Code, § 32.017) (Ord. passed 4-5-76; Am. Ord. passed - -15; Am. Ord. passed 12-5-16)

Cross-reference:

Duties with respect to flood damage prevention, see § 151.37

BUILDING INSPECTION DEPARTMENT

§ 32.30 ESTABLISHMENT.

For provisions concerning the Building Inspection Department, see §§ 150.75 through 150.81 of this code.

(‘87 Code, § 32.030)

PLANNING BOARD

§ 32.45 CREATION.

A Town Planning Board is hereby created under authority of G.S. § 160A-361 and 160A-387.

(‘87 Code, § 32.060) (Ord. passed 7-1-74)

§ 32.46 MEMBERSHIP; TERM; REMOVAL.

(A) The Planning Board shall consist of eight members; five members shall be citizens and residents of the town and shall be appointed by the Town Council; three members shall be citizens and residents of the area lying outside the corporate limits of the town but within the town planning area and shall be appointed in accordance with G.S. § 160A-362. The term of office of the members of the Planning Board shall be for overlapping terms of three years. Vacancies occurring for any reason other than expiration of term shall be filled as soon as is reasonably possible after the vacancy occurs by the proper board making the appointment. Such appointment shall be for the unexpired term, or for a longer term up to three years if needed to prevent the termination of four or more terms in the same year.

(B) Members may, after a public hearing, be removed by the Mayor for inefficiency, neglect of duty, or malfeasance in office. The Mayor shall file a written statement of reasons for such removal. ('87 Code, § 32.061) (Ord. passed 7-1-74; Am. Ord. passed 8-5-96)

§ 32.47 ORGANIZATION AND RULES.

(A) The Planning Board shall elect a Chairperson from among the appointed members and create and fill such other offices as it may determine. The term of office for the Chairperson shall be as determined by the Planning Board as a whole.

(B) The Planning Board shall hold meetings as required or necessary and shall be called by the Chairperson, and such meetings shall be open to the public. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record.

('87 Code, § 32.062) (Ord. passed 7-1-74)

§ 32.48 DUTIES AND POWERS.

(A) It shall be the function and duty of the Planning Board to make and adopt a suggested master plan for the physical development of the municipality or modify parts of this plan as the Planning Board and Town Council may deem best. The master plan, with the accompanying maps, plats, charts, and descriptive matter, may show the Planning Board's recommendations for the development of the territory including, among other things the general location, character, and extent of streets, viaducts, bridges, waterways, waterfronts, parks, boulevards, parkways, playgrounds, squares, aviation fields, and other public ways, grounds, and open spaces; the general location of public buildings and other public property; and the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power, and other purposes. The removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any of the foregoing ways, grounds, open spaces, buildings, property, utilities, or terminals may also be part of the master plan. The Planning Board shall also prepare and submit to the Town Council for its consideration and possible adoption a zoning ordinance for the control of height, area, location, and use of buildings and premises in the area. The Planning Board may from time to time recommend amendments, extensions, or additions to the master plan.

(1) In the preparation of the master plan, modified plan, or parts thereof, the Planning Board shall make careful and comprehensive surveys and studies of present conditions and future growth of the municipality, with due regard to its relation to the neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the municipality and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development, including among other things adequate provision for traffic,

the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements.

(2) Before the adoption by the Planning Board of the master plan or any such plan, amendment, extension, or addition, the Planning Board shall hold at least one public hearing thereon. The Planning Board shall have power to promote public interest in and understanding of the plan and to that end may hold public hearings, publish and distribute copies of the plan or of any report, and may employ other means of publicity and education as it may determine. Members of the Planning Board, when duly authorized by the Planning Board, may attend city planning conferences or meetings of city planning institutes or hearings upon pending city planning legislation, and the Planning Board may, by resolution spread upon its minutes, pay the reasonable traveling expenses incident to this attendance. All officers and employees of the town shall render such reasonable assistance and any such information to the Planning Board as may be requested by the Planning Board for its work.

(B) The Planning Board shall from time to time, and at least annually, submit reports in writing to the Town Council giving information regarding the condition of the town, any plans or proposals for the development of the town, and estimates of the cost thereof. These reports shall contain any other recommendations the Planning Board feels should have immediate attention.

(C) The Planning Board may contract with city planners, engineers, architects, and other consultants for those services it may require. The expenditures of the Planning Board, shall be within the amounts appropriated for this purpose by the Town Council.

('87 Code, § 32.063) (Ord. passed 7-1-74; Am. Ord. passed 12-5-16)

RECREATION AND PARKS ADVISORY COMMITTEE

§ 32.60 TITLE.

The recreation committee created by the town shall be known as the Haw River Recreation and Parks Advisory Committee, hereinafter referred to as the Advisory Committee.

('87 Code, § 32.110) (Ord. passed 5-2-84)

Statutory reference:

Administration of municipal parks and recreation programs, see G.S. § 160A-354

Editor's note:

Ordinance passed 4-5-04 suspended the activities and existence of the Recreation and Parks Advisory Committee until further action by the Town Council

§ 32.61 MEMBERSHIP.

(A) Each of 12 members of the Recreation and Parks Advisory Committee shall be appointed by the Town Council for a three-year term.

(B) A Town Council Member and the Town Manager shall be ex officio members of the Recreation and Parks Advisory Committee. Ex officio members will not have a vote on items coming before the Advisory Committee, but will serve as liaison members between the Town Council and the Advisory Committee.

(C) Vacancies shall be filled by appointment of the Town Council; however, the Advisory Committee may make recommendations for replacements.

(D) Advisory Committee members are eligible for reappointment after their terms expire.

(E) A member who without excuse misses more than three consecutive regular meetings shall lose his or her status as a member of the Advisory Committee. A member should notify the Chairperson of any absences prior to the meeting.

('87 Code, § 32.111) (Ord. passed 5-2-84)

§ 32.62 BUSINESS YEAR.

The business year of the Recreation and Parks Advisory Committee shall run from July 1 through June 30 of the next fiscal year.

('87 Code, § 32.112) (Ord. passed 5-2-84)

§ 32.63 POWERS AND DUTIES.

(A) The Recreation and Parks Advisory Committee shall serve as the advisory body for the town and the surrounding areas.

(B) The Advisory Committee shall suggest policies to the Recreation and Parks Supervisor, Town Council, and the Town Manager within its powers and responsibilities as stated in this subchapter.

(C) The Advisory Committee shall serve as a liaison between the Recreation and Parks Supervisor, Town Council, Town Manager, and the citizens of the town and surrounding areas.

(D) The Advisory Committee shall consult with and advise the Recreation and Parks Supervisor, Town Council, and the Town Manager in matters affecting park and recreation policies, programs, personnel, finances, facilities, and acquisition and disposal of land and properties related to the total community recreation program and its long-range projected program for recreation and parks. ('87 Code, § 32.113) (Ord. passed 5-2-84)

§ 32.64 OFFICERS.

(A) An annual election of a Chairperson, Vice-Chairperson, and Secretary (if not the Recreation and Parks Supervisor), shall be held by the Recreation and Parks Advisory Committee members and shall occur at the regular monthly meeting in June. Officers shall serve for one year from election and shall be eligible for reelection. New officers shall take office at the subsequent regular meeting in July.

(B) In the event an officer's appointment to the Advisory Committee is terminated, a replacement to this office shall be elected by the Advisory Committee from its membership at the meeting following the termination.

(C) The Chairperson shall plan an agenda for each regular meeting and preside at all meetings, sign all documents, appoint all subcommittees, and present all Advisory Committee recommendations and reports to the Town Council or appoint a designee to perform this duty.

(D) The Vice-Chairperson shall perform all duties of the Chairperson in his or her absence and shall be responsible for assisting the Chairperson to see that all standing and temporary committees function as planned by the Advisory Committee and the Recreation and Parks Supervisor.

(E) A member shall serve as Secretary to the Advisory Committee and shall be responsible for the satisfactory accomplishment of secretarial duties. The Recreation and Parks Supervisor may serve as the Secretary to the Advisory Committee. The Secretary shall mail to all members copies of official reports and official minutes of all regular and special meetings at least seven days prior to the next scheduled meeting.

('87 Code, § 32.114) (Ord. passed 5-2-84)

§ 32.65 MEETINGS.

(A) Meetings of the Parks and Recreation Advisory Committee will be held on the second Tuesday of each month at 7:30 p.m. at the town hall.

(B) The Chairperson of the Advisory Committee or in his or her absence, the Vice-Chairperson, may call a special meeting of the Advisory Committee by giving each member 24-hours notice. A special meeting will be scheduled upon request by five or more members.

(C) A quorum of the Advisory Committee shall be in attendance before action of an official nature can be taken. A quorum is the presence of the appointed members with at least one more present than the number of members absent.

(D) The order of business at regular meetings shall be as follows:

- (1) Call to order.
- (2) Consideration of minutes of previous meeting.
- (3) Report of Chairperson.
- (4) Report of Recreation and Parks Supervisor.
- (5) Report of subcommittees.

(6) Unfinished business.

(7) New business.

(8) Adjournment.

(E) General parliamentary rules given in *Robert's Rules of Order*, as modified by rules and regulations of the Advisory Committee, shall be observed in conducting meetings.

(F) The first regular meeting in June will be an organizational meeting with the election of officers, annual report, and report of subcommittees.

(G) Amendments to bylaws must be proposed in writing at one regular meeting and acted upon at the next regular meeting.

('87 Code, § 32.115) (Ord. passed 5-2-84)

§ 32.66 SUBCOMMITTEES.

(A) The Parks and Recreation Advisory Committee Chairperson is authorized to appoint those subcommittees as in the opinion of the Advisory Committee are needed. The standing subcommittees shall be appointed by the Chairperson at the July meeting or as soon thereafter as possible and its members shall serve until their successors are appointed.

(B) Subcommittees may be composed of members from the community, representatives of civic groups, or others. Each subcommittee shall consist of not less than two members of the Advisory Committee. One shall be the subcommittee chairperson, and one shall be the Chairperson of the Advisory Committee, the ex officio Town Council Member, or the Town Manager.

(C) Temporary and project committees shall be appointed as needed.

(D) A record of the actions of each subcommittee shall be kept by the subcommittee chairperson and shall be reported to the Advisory Committee at its next meeting.

(E) There shall be four standing subcommittees, which shall be as follows.

(1) *Programs and Activities Subcommittee.* This subcommittee shall:

(a) Assist the Recreation and Parks Supervisor in planning a program of recreation based on the expressed needs and interests of the community residents and recommend to the Recreation and Parks Supervisor and the Advisory Committee those programs which they feel should be implemented.

(b) Assist the Recreation and Parks Supervisor in recruiting volunteer leadership staff to work with the parks and recreation programs and activities.

(c) Assist in developing cooperative arrangements with other organizations and private groups when it will further the objective of providing more and varied kinds of programs for the community.

(d) Assist the Recreation and Parks Supervisor in evaluating each program to provide an annual report on all programs and activities.

(e) Perform other duties as requested by the Recreation and Parks Supervisor, the Chairperson of the Advisory Committee, the Town Manager, or the Town Council.

(2) *Areas and Facilities Subcommittee.* This subcommittee shall:

(a) Assist in investigating and determining the need for new facilities or renovation and improvement of existing facilities.

(b) Make recommendations for the care and control of all areas, facilities, and equipment.

(c) Assist in matters relating to the maintaining of the highest standards in park operation and development.

(d) Perform duties as requested by the Recreation and Parks Supervisor, the Chairperson of the Advisory Committee, the Town Manager, or the Town Council.

(3) *Budget and Finance Subcommittee.* This subcommittee shall:

(a) Advise and assist the Recreation and Parks Supervisor in the preparation of a parks and recreation budget by reviewing the financial needs and interpreting those needs to the Recreation and Parks Supervisor, the Town Manager, the Town Council, and the general public.

(b) Recommend fees and charges to be used.

(c) Determine the amount needed to be raised by taxation or other means in order to provide for all parks and recreation expenditures.

(d) Assist the Recreation and Parks Supervisor and the Town Manager in reporting the accounting and financial records and status to the Advisory Committee.

(e) Recommend and advise on the acceptance of any grant, gift, bequest, donation, or any personal or real property made available for park and recreation purposes.

(f) Perform other duties as requested by the Recreation and Parks Supervisor, Chairperson of the Advisory Committee, the Town Manager, or the Town Council.

(4) *Policies and Procedures Subcommittee.* This subcommittee shall:

(a) Assist and make recommendations to the Recreation and Parks Supervisor and the Advisory Committee on the policies, procedures, rules, and regulations which will provide for effective operation of the programs and facilities.

(b) Maintain and be custodian of the manual containing all approved policies, procedures, rules, regulations, and agreements which govern the parks and recreation system.

(c) Perform other duties as requested by the Recreation and Parks Supervisor, Chairperson of the Advisory Committee, Town Manager, or the Town Council.
(‘87 Code, § 32.116) (Ord. passed 5-2-84)

CHAPTER 33: FIRE AND POLICE DEPARTMENTS

Section

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- 33.36 Court appearance
- 33.37 Auxiliary Police Division

FIRE DEPARTMENT**§ 33.01 ORGANIZATION.**

The Fire Department shall consist of a Chief and a sufficient number of firefighters (voluntary, part- or full-time), to maintain and operate the Department.

('87 Code, § 32.040) (Ord. passed 1-7-74; Am. Ord. passed 5-3-10)

Statutory reference:

Authority to establish Fire Department, see G.S. § 160A-291

§ 33.02 FIRE CHIEF; DUTIES.

(A) The Town Manager shall be responsible for the recruiting, hiring and appointment of the Fire Chief. The Clerk of the Town Council shall administer the oath of office to the newly elected Fire Chief when he or she is approved. It shall be the duty of the Fire Chief to preside over and maintain order at all meetings of the Fire Department. He or she shall decide all questions of order subject to appeal. The Fire Chief shall be responsible to the Town Manager and the proper county, state, and federal agencies in all matters concerning the Fire Department.

(B) The duties of the Fire Chief, subject to supervision by the Town Manager, shall be as follows:

(1) General control of the Fire Department and its personnel, apparatus, and fire alarm system.

(2) Command the Fire Department, supervise the firefighting and the extinguishing of all fires, and have the authority to keep away from the vicinity of all fires all idle, disorderly, or suspicious persons.

(3) Inspect or cause to be inspected all trucks and other equipment of the Fire Department each week to ascertain that the equipment is being kept in proper condition, and report annually to the Town Manager the condition of all equipment.

(4) Inspect or cause to be inspected the fire alarm system at least once every three months and make a report of the inspection to the Town Manager.

('87 Code, § 32.041) (Ord. passed 1-7-74; Am. Ord. passed 5-3-10)

§ 33.03 FIRE INSPECTOR; DUTIES.

(A) The Fire Chief shall assume the functions of Fire Inspector. As such, he or she, or his or her designated agent, shall have authority to enter any and all premises at a reasonable time for the purpose of inspection.

(B) The Fire Inspector shall make inspections of all structures located within the fire district when requested.

(C) The Fire Inspector shall, upon receipt of a complaint, investigate and make recommendations to responsible persons at the scene of the investigation. He or she shall also report his or her findings to the Town Manager for follow-up action.

(D) The Fire Inspector shall investigate the causes of fires and shall keep records of his or her findings as to origin, location, owner, extent of damage, injury, and amount of insurance carried. The findings must be reported to the State Insurance Commissioner at regular intervals.

(E) The Fire Inspector shall cause the removal of fire hazards by serving proper order to the owner or agent of the premises in question; the order shall state a reasonable time limit. Failure to comply with the order shall be punished as set forth in § 10.99. In addition, all provisions contained in the Town Building Code (Chapter 150) relative to unsafe buildings shall be applicable.

(‘87 Code, § 32.042) (Ord. passed 1-7-74; Am. Ord. passed 5-3-10)

Statutory reference:

Fire Chief as Fire Inspector, see G.S. § 58-79-20

Right to appeal order of Fire Chief, see G.S. § 58-79-20

§ 33.04 AUTHORITY IN EVENT OF FIRE.

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

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

(‘87 Code, § 32.043) (Ord. passed 1-7-74; Am. Ord. passed 5-3-10)

§ 33.05 INTERFERENCE WITH FIREFIGHTER, FIRE APPARATUS.

(A) No person shall interfere with a firefighter in the discharge of his or her duty or hinder him or her in the performance of his or her duty; nor shall any person other than a member of the Fire Department loiter about any fire station or change, handle, or meddle in any manner with any fire engine or any other fire apparatus.

(B) No person other than a bona fide member of the Fire Department shall mount any fire engine, wagon, or apparatus before it leaves the station or while on its way to or from a fire or at any other time, unless by permission of the driver or officer in command of the engine, wagon, or other apparatus.

(‘87 Code, § 32.044) (Ord. passed 1-7-74; Am. Ord. passed 5-3-10) Penalty, see § 10.99

§ 33.06 RULES AND REGULATIONS.

The Fire Department may from time to time adopt its own rules and regulations governing the Department so long as they do not conflict with the rules and regulations of the town. However, any rules and regulations shall include provisions for at least one training period each month.
(‘87 Code, § 32.045) (Ord. passed 1-7-74; Am. Ord. passed 5-3-10)

POLICE DEPARTMENT**§ 33.20 ORGANIZATION.**

The Police Department of the town shall consist of a Police Chief, as many regular police officers as the Town Council shall determine necessary, and an Auxiliary Police Division as established by § 33.37.

(‘87 Code, § 32.075) (Ord. passed 12-2-74; Am. Ord. passed 5-3-10)

Statutory reference:

Appointment of police officers, see G.S. § 160A-281

Special police, see G.S. § 160A-282

§ 33.21 SUPERVISION BY TOWN MANAGER.

The Town Manager shall have general supervision over the Police Department. The Town Manager may suspend, for cause, any member of the Police Department until final disposition shall be made.

(‘87 Code, § 32.076) (Ord. passed 12-2-74; Am. Ord. passed 5-3-10)

§ 33.22 CHIEF OF POLICE.

The Chief of Police shall have control over the Police Department, under the supervision of the Town Manager. The Police Chief shall keep the Town Manager informed of the Police Department's activities and make those reports that the Town Manager may from time to time require. The Police Chief shall also perform other duties as may be required of him or her by the Town Manager.

(‘87 Code, § 32.077) (Ord. passed 12-2-74; Am. Ord. passed 5-3-10)

§ 33.23 OATH OF OFFICE.

Each person appointed or employed as Chief of Police, police officer, or auxiliary police officer shall take and subscribe before some person authorized by law to administer oaths the oath of office

required by the State Constitution, Art. VI, Section 7. The oath shall be filed with the Town Administrator/Clerk.

(G.S. § 160A-284) ('87 Code, § 32.078) (Am. Ord. passed 5-3-10)

§ 33.24 EXTRATERRITORIAL JURISDICTION.

(A) In addition to their authority within the corporate limits, town police officers shall have all the powers invested in law-enforcement officers by statute or common law within one mile of the corporate limits of the town and on all property owned by or leased to the town wherever located.

(B) Any officer pursuing an offender outside the corporate limits or extraterritorial jurisdiction of the town shall be entitled to all of the privileges, immunities, and benefits to which he or she would be entitled if acting within the town, including coverage under workmen's compensation laws.

(G.S. § 160A-286) ('87 Code, § 32.079) (Am. Ord. passed 5-3-10)

§ 33.25 POWERS AND DUTIES.

(A) The Police Department shall carry out all orders of the Town Manager, enforce all laws and ordinances of the town and the state, and at all times preserve the peace and protect the property and safety of the citizens of the town. (Ord. passed 12-2-74)

(B) As a peace officer, a police officer shall have within the corporate limits of the town all of the powers invested in law-enforcement officers by statute, ordinance, or common law. He or she shall also have power to serve all civil and criminal process that may be directed to him or her by an officer of the General Court of Justice and may enforce the ordinances and regulations of the town as the Town Manager may direct. (G.S. § 160A-285)

('87 Code, § 32.080) (Am. Ord. passed 5-3-10)

§ 33.26 CONDUCT OF OFFICERS; CARRYING WEAPONS.

(A) All police officers shall realize the public expects an officer to be an officer 24 hours a day and shall conduct themselves in a manner so they may respond to active duty any time the need should arise. All officers shall carry their official identification and weapons at all times. If weapons are not carried on their person while off duty and in their respective jurisdiction, they should be readily accessible in case a situation should arise while the officer is out in public and off duty.

(B) All officers and members of the Police Department must remain alert, observant, and occupied with police business during their tour of duty and must not conduct themselves in a manner that would merit criticism for inattentiveness or waste of time. All officers must maintain themselves, their uniforms, and equipment in a neat, prepared manner.

(C) At no time shall an officer conduct himself or herself in a manner unbecoming to an officer, whether on or off duty.

(D) All members of the Police Department shall familiarize themselves with the code of conduct contained in this chapter, all general orders, and the town's personnel policies. It shall be the responsibility of each member to be familiar with each of these mentioned items.
(‘87 Code, § 32.081) (Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

§ 33.27 DERELICTIONS OF DUTY.

(A) Derelictions of duty on the part of any officer which are prejudicial to the proper performance of the functions of the Police Department are causes for disciplinary action and will be punished according to the degree of the violation of this subchapter and the town personnel policies. The following constitute violations of this section:

- (1) Failure to observe and give effect to the policies of the Police Department.
- (2) Failure to obey orders or the willful or repeated violation of any rule, regulation, or policy of the Police Department.
- (3) Failure to make proper report of offenses investigated, observed, or reported.
- (4) Failure to deliver and make report of any property found by, confiscated by, or relinquished to any member of the Police Department.
- (5) Failure to maintain evidence in accordance with applicable law.
- (6) Sleeping on duty.
- (7) Neglect of duty.
- (8) Violation of any ordinance, rule, regulation, or policy of the Police Department or the town.
- (9) Failure to give name and badge number upon request.
- (10) Absence without leave (for example, either a failure to report for duty at the time and place of duty or the leaving of a place of duty or assignment without the proper authorization from a supervisor).
- (11) The following will result in immediate relief of duty:

(a) Being under the influence of drinking or using in any manner any intoxicants, drugs, or alcoholic beverages while on duty.

(b) Appearing intoxicated in a public place while off duty.

(c) Excessive use of intoxicants.

(d) Willful disobedience of any lawful order issued by a supervisor.

(e) Unnecessary violence toward any person.

(f) Disrespect shown to a supervisory officer.

(g) Using indecent, profane language while on duty.

(h) Accepting, agreeing to accept, or soliciting a bribe. A bribe shall include any money, item of value, service, testimony, or anything that would cause the person giving the same any special privileges or personal gain. In no way will these items be taken to be explained by the term "gift," but will be strictly considered a bribe.

(i) Cowardice.

(j) Violation of any federal or state law.

(k) Conduct subversive to the good order and discipline of the Police Department or the town.

(B) It is understood that this code of conduct cannot cover every case which may arise. Therefore, those acts not specifically set out in division (A) which involve moral turpitude or which may bring discredit upon the individual or the Police Department itself, or cause conflict with policies and procedures if committed by an employee, will be taken cognizance of and action shall be taken according to the seriousness of the offense in the same manner and degree as if the offense had been specifically set out herein.

('87 Code, § 32.082) (Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

§ 33.28 OFFICERS TO DEVOTE FULL TIME; APPROVAL OF PART-TIME EMPLOYMENT.

(A) Each member shall devote himself or herself full-time as a police officer of the town.

(B) Understanding that economics sometimes make it desirable to seek and obtain part-time employment, any officer wishing to do so must first request the same in writing to the Chief of Police

setting forth the company he or she would be working for, the hours, pay, description of the job, and duties he or she would be performing. All requests will be reviewed by the Chief of Police for his or her action on the same. However, under no circumstances will any officer be allowed to participate in part-time employment at any pool room, game room, adult book and film store, or bar.
(‘87 Code, § 32.083) (Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

§ 33.29 POLITICAL ACTIVITY.

No officer shall actively campaign for any candidate running for public or political office while in the performance of his or her duties as a police officer, nor shall he or she use his or her position to attempt to influence anyone's decision in a political election.
(‘87 Code, § 32.084) (Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

§ 33.30 OFFICERS TO OBSERVE RIGHTS OF PERSONS DETAINED, QUESTIONED.

All officers will strictly abide by the law in regard to the rights of all persons, shall not in any way violate these rights, and at all times shall treat all persons with the respect and courtesy due them.
(‘87 Code, § 32.085) (Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

Statutory reference:

Arrest procedure, see G.S. § 15A-501

§ 33.31 GOSSIP AND CONFIDENTIAL INFORMATION.

At no time shall any member of the Police Department spread rumors or gossip to anyone concerning any member of the Police Department, town employees, or anyone else. No officer shall divulge any information about any investigation or criminal activity or records unless authorized to do so by the Chief of Police or a court order.
(‘87 Code, § 32.086) (Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

§ 33.32 ADDRESS, TELEPHONE NUMBER TO BE KEPT CURRENT.

All members of the Police Department shall furnish the Chief of Police with an accurate and up-to-date address and telephone number. All members of the Department shall be expected to maintain a telephone and should realize that the nature of police business dictates that an officer may be called in for duty at times other than normal duty hours.
(‘87 Code, § 32.087) (Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

§ 33.33 UNIFORMS.

(A) All police officers shall wear uniforms provided by the town, shall keep these uniforms in a neat and clean condition, and shall surrender all uniforms and equipment upon leaving the police service of the town if the uniforms and equipment are furnished by the town.

(B) The uniform and sidearms will be worn when and as prescribed herein and as set forth in current general orders:

(1) When on duty, every member of the Police Department shall wear the uniform and insignias and carry such equipment as the Chief of Police may direct.

(2) No member of the uniformed division shall ever appear for duty in civilian clothing unless directed or authorized to do so by the Chief of Police.

(3) Members of the Police Department are required to keep their uniforms and equipment in good, neat, and clean condition.

(4) An officer will be considered out of uniform when not wearing the prescribed uniform.

(5) No officer when dressed in civilian clothing, whether on or off duty, shall wear his or her pistol in such a manner that it will attract attention or be open to the view of the public, but rather it shall be worn in a concealed manner so as to be inconspicuous, in accordance with seasonal dress.

(6) No officer shall wear his or her uniform or badge while under suspension from the Police Department.

('87 Code, § 32.088) (Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

§ 33.34 EQUIPMENT; VEHICLES.

(A) All officers shall maintain their equipment in good, proper working condition.

(B) All officers are hereby prohibited from altering or changing any police equipment issued to or used by them.

(C) All officers are hereby prohibited from operating any police vehicle in a reckless or abusive manner and shall maintain the vehicle in a good and neat condition.

(D) Officers are hereby prohibited from utilizing emergency equipment, such as blue lights, sirens, or public address systems, for foolishness, horseplay, or harassment.

('87 Code, § 32.089) (Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

§ 33.35 EMERGENCY RUNS; CHASE SITUATIONS.

(A) An officer shall use a police vehicle on an emergency run only when requested to do so by the town's dispatcher, "C-Comm" dispatcher or another law enforcement officer requesting emergency assistance, or when in the officer's own sound judgment he or she should make the emergency run, in which case the officer will be expected to give sound oral and written reasons for his or her judgment.

(B) At any time an officer becomes involved in a chase situation with another vehicle, he or she is hereby directed to use common sense and sound judgment in the situation. If at any time the general safety and well-being of the general public should become exposed to unnecessary danger, the officer shall back off or disregard the chase.

(C) All officers will be strictly accountable for their actions in a chase situation.
(‘87 Code, § 32.090) (Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

§ 33.36 COURT APPEARANCES.

(A) All members of the Police Department must be present and available to testify in any court or grand jury in the county when officially notified to appear. In criminal cases outside the county, an officer shall respond to a legal subpoena only.

(B) Any officer who for a valid reason is unable to answer an official summons must be excused by the court or grand jury prior to the time he or she is scheduled to appear.

(C) All officers will set their criminal court cases on their designated court dates, unless the cases are otherwise set for trial on a different date by the court.
(‘87 Code, § 32.091) (Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

§ 33.37 AUXILIARY POLICE DIVISION.

(A) There is hereby established within the Police Department as a division thereof, an Auxiliary Police Division. The Auxiliary Police Division shall be a volunteer organization composed of as many members as may from time to time be determined by the Town Council.

(B) The Chief of Police shall appoint all officers of the Auxiliary Police Division. Each member of the Auxiliary Police Division shall take the oath of office of a regular police officer. The Chief of Police shall provide for adequate training of members of the Auxiliary Police Division and of candidates for membership thereof.

(1) The Auxiliary Police Division shall be under the direct control and supervision of the Chief of Police, acting under the general supervision of the Town Manager. All appointments and removals of members of the Auxiliary Police Division shall be made in the same manner and under the same policies and procedures as may from time to time be established for appointment and removal of regular police officers.

(2) All members of the Auxiliary Police Division shall work under the direct supervision of the Chief of Police, a regular police officer, or any officer so designated by the Chief of Police as a supervisory officer for the Auxiliary Police Division.

(C) (1) The duties of the Auxiliary Police Division, subject at all times to the direction, supervision, and control of the Chief of Police, shall be to assist the regular members of the Police Department in the enforcement of law and the maintenance of peace and order when called to active duty by the Chief of Police. The Chief of Police shall establish rules and regulations to govern the Auxiliary Police Division and shall assign specific duties for its members and provide for the maintenance of discipline. Members of the Auxiliary Police Division shall also obey the instructions of regular police officers in carrying out their duties.

(2) No member of the Auxiliary Police Division shall enforce or attempt to enforce any law except when called to active duty, except when immediately accompanied by one or more regular police officers and under the direction of the Chief of Police.

(D) All members of the Auxiliary Police Division shall abide by all provisions regulating the conduct of regular police officers.

(E) No member of the Auxiliary Police Division shall carry or use any firearms except upon the express order of the Chief of Police and only after having been called to active duty by the Chief of Police. Further, such member shall be accompanied and be under the supervision of one or more regular police officers. All members of the Auxiliary Police Division shall wear and utilize such equipment as is prescribed by the Chief of Police.

(F) An identification card, or such other badge, insignia, or evidence of identity as the Chief of Police may prescribe and issue, must be carried at all times by all members while on active duty and shall be surrendered upon termination of membership.

('87 Code, § 32.092) (Ord. passed 6-1-81; Am. Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

Statutory reference:

Authorization to establish auxiliary police department, see G.S. § 160A-282

CHAPTER 34: TOWN POLICIES

Section

Affirmative Action Plan

- 34.01 Goals of plan
- 34.02 Equal Employment Opportunity Officer
- 34.03 Responsibility of departments
- 34.04 Internal communication of plan
- 34.05 Recruiting and selection process
- 34.06 Training
- 34.07 Compensation
- 34.08 Promotion
- 34.09 Labor contracts
- 34.10 Grievance procedure
- 34.11 Termination

Procedures for Disposing of Personal Property Valued At Less Than \$5,000

- 34.25 Designated official
- 34.26 Sale of property
- 34.27 Record of sales/exchanges

Background Checks for Town Employees

- 34.35 Criminal history checks

AFFIRMATIVE ACTION PLAN

§ 34.01 GOALS OF PLAN.

(A) Immediate action should be taken to assure that salaries and benefits are the same for all employees who perform substantially similar work. In addition, neither age, sex, race, religion, national origin, or physical handicap shall be a factor in placing employees in jobs with different pay levels or opportunities for advancement.

(B) Long-range goals should also be established to eliminate employment discrimination and the effects of past discrimination. Annual targets should be set based upon anticipated turnover, expansion or contraction, availability of qualified persons, and similar considerations which targets shall be aimed at increasing the numbers of employees in the groups identified as under represented in each major job description.

('87 Code, § 34.01) (Ord. passed 3-6-79)

§ 34.02 EQUAL EMPLOYMENT OPPORTUNITY OFFICER.

(A) The Equal Employment Opportunity Officer has responsibility for developing procedures to implement this plan and to audit and evaluate the success of these procedures.

(B) The duties of the Equal Employment Opportunity Officer are to:

(1) Implement and communicate the plan.

(2) Periodically review the plan, placing special emphasis on the results achieved.

(3) Receive and investigate rumors or complaints of discrimination from other employees.

(4) Aid in preparing job descriptions for each position and distribute the descriptions to employees upon hiring.

(5) Post his or her name, location, hours, and phone number in one or more public areas.

(C) The Equal Employment Opportunity Officer shall continually monitor progress being made in meeting the objectives of this plan. Where appropriate, periodic revisions in the annual affirmative action plan shall be made.

(D) The Equal Employment Opportunity Officer shall prepare and submit reports to the State Equal Employment Opportunity Commission and to all other appropriate governmental agencies having responsibility for the affirmative action performance of the town.

(E) The Equal Employment Opportunity Officer shall conduct a census of the town employees by job class and submit an assessment of the current utilization patterns for women and minorities.

('87 Code, § 34.02) (Ord. passed 3-6-79)

§ 34.03 RESPONSIBILITY OF DEPARTMENTS.

(A) Department heads and supervisors shall be responsible for helping to meet the goals of the policy. Every department head is very important to program success. Performance in meeting affirmative action objectives shall be the responsibility of each department head.

(B) The heads of various departments in the jurisdiction will be responsible for:

- (1) Analyzing their work force relative to utilization of minorities and women.
- (2) Actively promoting a positive climate in the departments concerning affirmative action.

(3) Counseling and giving special help to women and minority employees, particularly with regard to promotional opportunities within the departments.
(‘87 Code, § 34.03) (Ord. passed 3-6-79)

§ 34.04 INTERNAL COMMUNICATION OF PLAN.

(A) Special meetings shall be held quarterly with supervisory personnel to discuss progress and problems relative to the program.

(B) Required equal opportunity posters and an employer policy statement regarding the program shall be posted in places where employees normally expect to find such notices.

(C) Every employee shall be informed of the Equal Employment Opportunity Officer to whom questions can be directed and whose counsel may be sought regarding the program.

(D) Every employee shall also be personally informed of the existence and operation of the internal grievance procedure set up under § 34.10 of this plan for handling complaints of discrimination.

(E) The actions of every employee are important to achieving the plan's objectives.
(‘87 Code, § 34.04) (Ord. passed 3-6-79)

§ 34.05 RECRUITING AND SELECTION PROCESS.

(A) All employment advertisements shall contain the words "an equal opportunity-affirmative action employer."

(B) All recruiting announcements will contain the following statement: "The Town of Haw River, North Carolina, is an affirmative action/equal opportunity employer. We are dedicated to a policy of nondiscrimination in employment on the basis of race, color, religion, sex, marital status, national origin, age, or mental or physical disability."

(C) Employment application forms shall contain the following clause: "The Town of Haw River, North Carolina, is an equal opportunity employer and shall not discriminate against an employee or applicant for employment because of race, color, religion, sex, age, marital status, national origin, or mental or physical disability unless based upon a bona fide occupational qualification. If you believe you have been discriminated against, you should notify the jurisdiction's Equal Employment Opportunity

Officer, the State Equal Employment Opportunity Commission, or the State Civil Rights Division, Bureau of Labor."

(D) Application blanks and employer records shall be reviewed and revised to ensure all questions not related to job performance or which operate to the detriment of minorities and women are eliminated.

(E) Other selection criteria such as physical or education requirements shall be reviewed and revised to ensure job-relatedness. Specifically, this includes, but is not limited to height and weight requirements, educational degrees, years of work experience, and the like.

(F) All criteria used in selection shall be the minimum necessary for the job or job class for which the individual is hired. Only where promotion to higher jobs or job classes is expected within a reasonable period of time shall criteria for the higher job be used and then only when it is unfeasible for the town, through training programs, to prepare the individual for promotion in that time period.

(G) Interviews or oral boards shall be carefully structured to seek only information that is job-related. Action taken as a result of the interviews shall be specifically recorded on this form and focused on job-related factors only. All interviewers shall be carefully selected and instructed. Where possible, minority or women interviewers shall be utilized.

(H) Required equal employment opportunity notices, along with information regarding the town's affirmative action plan, shall be conspicuously displayed in all offices where tests and interviews are conducted. In addition, an equal employment opportunity clause such as that referred to in division (C) shall be included on all application blanks and employee records.

('87 Code, § 34.05) (Ord. passed 3-6-79)

§ 34.06 TRAINING.

(A) Whenever the jurisdiction sponsors any training activity, special attention and consideration shall be given to securing the participation of minorities and women.

(B) Work schedules of minorities and women employees shall be adjusted so as to permit their participation in training programs.

(C) Where lack of resources restricts training opportunities that can be offered, the town shall seek the cooperation of other agencies in requesting local educational institutions to set up training programs so as to increase the numbers of qualified women and minorities in the labor force.

('87 Code, § 34.06) (Ord. passed 3-6-79)

§ 34.07 COMPENSATION.

(A) Pay rates shall be equalized where jobs require substantially equal skill, effort, and responsibility.

(B) All fringe benefit programs shall be reviewed and revised where necessary to assure that they are equally available to every employee. Particular attention shall be paid to the availability of fringe benefits to female employees, especially in areas such as disability leave for childbirth, retirement systems, and insurance programs.

(C) Working conditions shall be reviewed to ensure that for each job or job classification substantially similar conditions prevail. Specifically, this will include review of work schedules, opportunities for overtime work, scheduling of vacations, and other similar items.
(‘87 Code, § 34.07) (Ord. passed 3-6-79)

§ 34.08 PROMOTION.

(A) Selection for promotion shall conform to all the practices outlined in § 34.05.

(B) No applicant shall be denied a promotion or job assignment on the basis of sex or any other prohibited criteria. Applicants shall be given a trial on the job to prove their capability if they are otherwise eligible for the promotion or assignment. The same policy shall be adhered to in layoff and recall decisions.
(‘87 Code, § 34.08) (Ord. passed 3-6-79)

§ 34.09 LABOR CONTACTS.

A nondiscrimination clause shall be written into all labor contracts. It shall state substantially that: "It is mutually agreed that there shall be no discrimination because of race, color, religion, sex, age, marital status, national origin, or mental or physical disability unless based upon a bona fide occupational qualification. Union and management representatives shall work cooperatively to assure the achievement of equal employment opportunity. Any employee who fails to cooperate toward this end shall be subject to disciplinary action. Furthermore, employees who feel they have been discriminated against shall be encouraged to use the grievance procedure set up under this contract prior to seeking relief through other channels."
(‘87 Code, § 34.09) (Ord. passed 3-6-79)

§ 34.10 GRIEVANCE PROCEDURE.

(A) An applicant or employee who feels that he or she has been discriminated against because of race, color, religion, sex, national origin, marital status, age, or physical handicap or because due process has been denied them, may file a complaint with the Equal Employment Opportunity Officer. Any such complaint must be filed within 30 calendar days of the alleged incident of discrimination.

(B) The Equal Employment Opportunity Officer will be responsible for conducting a fair and impartial investigation and making findings of fact as to all interested parties. The Equal Employment Opportunity Officer shall then make a recommendation to an impartial panel which shall be responsible

for a final determination of the matter. Should the complainant so request in writing, an appeal in the form of a hearing shall be granted. The Equal Employment Opportunity Officer shall be responsible for convening and establishing fair hearing procedures.
(‘87 Code, § 34.10) (Ord. passed 3-6-79)

§ 34.11 TERMINATION.

Employees shall be terminated only for just cause or of their own volition. Exit interviews will be conducted in the case of voluntary resignations of minorities and women to see if any factors under the town's control are responsible. A written record of any such factors disclosed shall be made.
(‘87 Code, § 34.11) (Ord. passed 3-6-79)

PROCEDURES FOR DISPOSING OF PERSONAL PROPERTY VALUED AT LESS THAN \$5,000

§ 34.25 DESIGNATED OFFICIAL.

The Town Manager is hereby authorized, pursuant to G.S. § 160A-266(c), to dispose of any surplus personal property owned by the town whenever he or she determines, in his or her discretion, that:

(A) The item or group of items has a fair market value of less than \$5,000;

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

(C) Sound property management principles and financial considerations indicate that the interests of the town would best be served by disposing of the property.
(Ord. passed 12-4-89; Am. Ord. passed 2-5-01)

§ 34.26 SALE OF PROPERTY.

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

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

available salvage value, or cause it to be disposed of as waste material. No surplus property may be donated to any individual organization except by resolution of the Mayor and Town Council.
(Ord. passed 12-4-89; Am. Ord. passed 2-5-01)

§ 34.27 RECORD OF SALES/EXCHANGES.

The Town Manager shall keep a record of all property sold under authority of this subchapter and that record shall generally describe the property sold or exchanged, to whom it was sold, or with whom it was exchanged, and the amount of money or other consideration received for each sale or exchange.
(Ord. passed 12-4-89; Am. Ord. passed 2-5-01)

BACKGROUND CHECKS FOR TOWN EMPLOYEES

§ 34.35 CRIMINAL HISTORY CHECKS.

(A) In order to protect the citizens of the town and their properties, the procedures herein are established to provide for fingerprinting and criminal history checks on all final applicants for regular full and part-time positions in the Town Government. Employment with the town may be denied for those persons convicted of any crime against a person, or crimes against property where intent is an element, or any drug or gambling related offense.

(1) The Town Manager, or designee, shall conduct an investigation of any final candidate for a permanent full-time or part-time position with the Town Government and it shall be a precondition of employment that an applicant for such a position shall upon request, provide fingerprints and all other necessary personal identification including a birth certificate, social security number and driver's license, if available, so that the Town Manager, or designee, may cause a thorough search to be made of local and state records to determine if the applicant has a history of criminal convictions or the crimes enumerated above by the use of the Division of Criminal Information Network (DCI).

(2) The Police Department shall provide the findings from the use of the DCI to the Town Manager or designee, provided that all necessary agreements with the State Bureau of Investigations Division of Criminal Information have been executed.

(3) An evaluation of any crime for purpose of employment will take into account the nature and the circumstances of the offense and the time frame of the offense as it relates to essential job functions for the position applied.

(B) If this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications or the ordinance, which can be given separate effect, and to that end the provisions of this section are declared to be severable.

(C) Prior to denial or termination of employment based upon Criminal History Record Inquiry (CHRI) received from the Haw River Police Department. The Town of Haw River shall verify the existence of a record by either obtaining a certified public record or by submitting a fingerprint card of the individual to the CHS section for verification that the CHRI record belongs to the individual.
(Ord. passed 7-2-07)

CHAPTER 35: CIVIL EMERGENCIES

Section

- 35.01 When state of emergency deemed to exist
- 35.02 Proclamation by Mayor
- 35.03 Restrictions during emergency
- 35.04 Violations prohibited
- 35.05 Proclamation of end of state of emergency

Statutory reference:

Civil disorders, see G.S. §§ 14-288.1 through 14-288.20

State Emergency Management Act, see G.S. Ch. 166A

§ 35.01 WHEN STATE OF EMERGENCY DEEMED TO EXIST.

A state of emergency shall be deemed to exist whenever there is 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, or paramilitary cause.

('87 Code, § 92.01) (Ord. passed 1-7-74)

Statutory reference:

Definitions, G.S. § 166A-4

Procedures governing declaration of a local state of emergency, G.S. § 166A-8

§ 35.02 PROCLAMATION BY MAYOR.

(A) In the event of an existing or threatened state of emergency endangering the lives, safety, health, and welfare of the people within the town or threatening damage to or destruction of property, the Mayor is hereby authorized and empowered to issue a public proclamation declaring to all persons the existence of a state of emergency and, in order to more effectively protect the lives and property of people within the town, to place in effect any of the restrictions authorized in this chapter.

(B) The Mayor is hereby authorized and empowered to limit by the proclamation the application of such restrictions to any area specifically designated or described within the corporate limits and to specific hours of the day or night; and to exempt from those restrictions law enforcement officers, firefighters, and other public employees, doctors, nurses, employees of hospitals and other medical facilities, on-duty military personnel, whether state or federal, on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit, and such other classes of persons as may be essential to

the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of the people within the town.

(‘87 Code, § 92.02) (Ord. passed 1-7-74)

§ 35.03 RESTRICTIONS DURING EMERGENCY.

(A) During the existence of a proclaimed state of emergency, the Mayor may impose by proclamation any of the following restrictions:

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

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

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

(4) Prohibit or regulate the sale of gasoline, kerosene, naphtha, or any other explosive or inflammable fluids or substances.

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

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

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

(‘87 Code, § 92.03) (Ord. passed 1-7-74)

Statutory reference:

Authority to set forth such restrictions, see G.S. §§ 14-288.12, 14-288.16

§ 35.04 VIOLATIONS PROHIBITED.

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

(‘87 Code, § 92.04) (Ord. passed 1-7-74) Penalty, see § 10.99

§ 35.05 PROCLAMATION OF END OF STATE OF EMERGENCY.

The Mayor shall proclaim the end of a state of emergency or all or any part of the restrictions imposed as soon as circumstances warrant or when directed to do so by the Town Council.

('87 Code, § 92.05) (Ord. passed 1-7-74)

Statutory reference:

Rescission of proclamations, see G.S. § 14-288.16

CHAPTER 36: TAXES

Section

Short-Term Lease of Rental of Vehicles

- 36.01 Definitions
- 36.02 Levy of tax
- 36.03 Collection of tax
- 36.04 Report and payment of tax
- 36.05 Taxpayer to keep records
- 36.06 Tax Collector to provide forms
- 36.07 Situs
- 36.08 Administration

- 36.99 Penalty

§ 36.01 DEFINITIONS.

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

CUSTOMER. Any person that leases or rents a vehicle on a short-term lease or rental basis.

GENERAL STATUTES. Refers 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. The amount that is or would be reported as gross receipts on a business's state income tax return, or on the federal income tax return filed with the state income tax return if the state return does not separately state gross receipts for the most recently completed tax year. Taxes collected hereunder are not subject to the tax herein imposed and are not included in gross receipts.

LEASE or RENTAL. A transfer, for consideration, of the use but not the ownership of property to another for a period of time. (G. S. § 105-164.3 (7a))

LONG-TERM LEASE OR RENTAL. A lease or rental made under a written agreement to lease or rent property to the same person for a period of at least 365 continuous days. (G.S. § 105-187.1(3))

SHORT-TERM LEASE OR RENTAL. Any lease or rental of a vehicle that is not a long-term lease rental. (G. S. §§ 160A-215.1(e)(2) and 105-187.1(4))

TAX COLLECTOR. Refers to that individual appointed by the governing body pursuant to G. S. § 105-349, (the provisions of the municipal charter), to collect taxes on behalf of the town and any other person authorized to carry out the duties and functions of such individual.

TAXPAYER. Any person liable for the taxes imposed by this chapter.

VEHICLE.

(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 a cargo van, pickup truck, or truck with a gross vehicle weight of 26,000 pounds or less used predominantly 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 semi-trailer with a gross vehicle weight of 6,000 pounds or less.
(G. S. § 160A-215.1(e)(1))
(Ord. passed 6-5-00)

§ 36.02 LEVY OF TAX.

A tax is hereby imposed and levied in an amount equal to 1.5% of the gross receipts derived from the short-term lease or rental of vehicles at retail to the general public. This tax on gross receipts is in addition to the privilege taxes authorized by G.S. § 160A-211.
(Ord. passed 6-5-00) Penalty, see § 36.99

§ 36.03 COLLECTION OF TAX.

Every person engaged in the business of the short-term lease or rental of vehicles at retail to the general public shall collect at the time of the lease or rental the tax herein levied, place the tax so collected in a segregated account, and thereafter remit such tax to the Tax Collector in accordance with the provisions of this chapter. The taxpayer shall include a provision in each retail short-term lease or rental agreement stating that the percentage amount enacted by this chapter of the total lease or rental price, excluding sales tax, is being charged as a tax on gross receipts. The amount of the tax shall be stated separately from the lease or rental and shown separately on the taxpayer's records. The tax shall be paid by the customer to the taxpayer as trustee for and on account of the town. The taxpayer shall be liable for the collection thereof and for its payment to the Tax Collector and the taxpayer's failure to charge or to collect the tax from the customer shall not affect such liability.
(Ord. passed 6-5-00) Penalty, see § 36.99

§ 36.04 REPORT AND PAYMENT OF TAX.

Taxes levied under this chapter are due and payable when a return is required to be filed. Every taxpayer shall, within the time specified, submit a return to the Tax Collector on the form prescribed by the Tax Collector. A return must be signed by the taxpayer or the taxpayer's agent. Returns of taxpayers are due to the Tax Collector each month on or before the fifteenth day of the month following the month in which the tax accrues. As provided in G.S § 160A-208.1, a return shall not be considered a public record and information contained in a return may be disclosed only in accordance therewith.
(Ord. passed 6-5-00)

§ 36.05 TAXPAYER TO KEEP RECORDS.

The taxpayer shall keep and preserve suitable records of the gross receipts received by such taxpayer in the conduct of business and such other books or accounts as may be necessary to determine the amount of the tax for which such taxpayer is liable under the provisions of this chapter. It shall be the duty of the taxpayer to keep and preserve for a period of three years all such records of gross receipts and other books and accounts described. All records, books and accounts herein described shall be open for examination at all reasonable hours during the day by the Tax Collector or his duly authorized agent.
(Ord. passed 6-5-00)

§ 36.06 TAX COLLECTOR TO PROVIDE FORMS.

The Tax Collector shall design, prepare, print and make available to all taxpayers operating within the municipal boundaries of the town forms and instructions for filing returns to insure a full collection of and an accounting for taxes due. The failure of any taxpayer to obtain or receive forms shall not relieve such taxpayer from the payment of the tax at the time and in the manner provided.
(Ord. passed 6-5-00)

§ 36.07 SITUS.

The transaction giving rise to the tax herein levied shall be deemed to have occurred at the location of the entity from which the customer takes delivery of the vehicle.
(G. S. § 160A-215.1(b)) (Ord. passed 6-5-00)

§ 36.08 ADMINISTRATION.

In addition to the provisions herein, the levy and collection of the taxes herein imposed shall be otherwise administered in the same manner as the sales and use tax as provided in G.S. Ch. 105, Art. 5, Subchapter 1.

(G.S. § 160A-215.1(d)) (Ord. passed 6-5-00)

§ 36.99 PENALTY.

The provisions with respect to remedies and penalties applicable to G.S. Ch. 105, Subchapter VIII (Local Government Sales and Use Tax), as contained in G.S. Ch. 105, Arts. 5 and 9, Subchapter 1 thereof, shall be applicable in like manner to the tax authorized to be levied and collected under this chapter, to the extent that the same are not inconsistent with the provisions hereof. The governing body of the town may exercise any power the Secretary of Revenue may exercise in collecting sales and use taxes.

(G.S. § 160A-215.1(f)) (Ord. passed 6-5-00)

TITLE V: PUBLIC WORKS

Chapter

- 50. RECYCLING**
- 51. WATER AND SEWER SYSTEM
REGULATIONS**
- 52. SEWERS**
- 53. WATER SHORTAGE RESPONSE PLAN**

CHAPTER 50: RECYCLING

Section

- 50.01 Applicability
- 50.02 Definitions
- 50.03 Territorial jurisdiction
- 50.04 Participation in recycling program
- 50.05 Unauthorized pick-up

- 50.99 Penalty

§ 50.01 APPLICABILITY.

The Alamance County Recycling Ordinance, as set forth in this chapter, and any amendment to the ordinance shall be applicable within the town limits of Haw River.
(Res. passed 11-4-91)

§ 50.02 DEFINITIONS.

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

BUY-BACK CENTER. A commercial venture consisting of the purchase or repurchase from the public of target recyclables or other recyclable materials for resale or reuse at a location where residential generators and commercial generators bring target recyclables or other recyclable materials to the center.

COMMERCIAL HAULER. Any person, whether or not for hire or profit, which collects and/or transports target recyclables originated from a location other than the person's residence or place of business. The operation of a Buy-Back Center shall not be deemed activities of a **COMMERCIAL HAULER**. Excluded from this definition is any eleemosynary organization.

COMMERCIAL GENERATOR. Any generator of target recyclables located in Alamance County, other than a residential generator, and includes, but is not limited to businesses, institutions, and public entities.

FACILITY. The recycling facility operated by Browning-Ferris Industries of South Atlantic, Inc. located in Alamance County with which the County of Alamance has a contract to accept target

recyclables generated within Alamance County or such other facility having a contract to accept target recyclables with the County of Alamance which shall be designated by resolution as a ***FACILITY*** within the meaning of this term.

RESIDENTIAL GENERATOR. An individual household, dwelling, apartment, or other place of residence located in Alamance County which produces target recyclables.

TARGET RECYCLABLES. As to residential generators, means newspapers, corrugated cardboard, aluminum cans, steel cans, category two high density polyethylene ("HDPE"), milk and water bottles or jugs, category one polyethylene terephthalate ("PET") beverage containers, metal coat hangers, food and beverage glass bottles, and glass jars which are either clear or green or brown in color; and as to commercial generators means in addition to these items listed cardboard tubes and office paper (including computer paper and shredded office paper).
(Res. passed 11-4-91)

§ 50.03 TERRITORIAL JURISDICTION.

(A) It is the intent of the Board of Commissioners for this chapter to be applicable county-wide including all municipalities contained within the County of Alamance. This chapter shall be in full force and effect within the boundaries of any given municipality located within the boundaries of the County of Alamance on and after the effective date of this chapter or the date the governing board of the municipality by resolution permits the applicability of this chapter within the municipality, whichever is later.

(B) Should all the municipalities located within the County of Alamance not allow this chapter to be applicable within their jurisdiction, this chapter shall be applicable to that part of the county not within a municipality and applicable to those municipalities which have by resolution permitted this chapter to be applicable within their boundaries.
(Res. passed 11-4-91)

§ 50.04 PARTICIPATION IN RECYCLING PROGRAM.

(A) All persons, including both residential and commercial generators and commercial haulers, shall participate in the Alamance County Recycling Program as provided herein.

(B) All persons, including both residential and commercial generators, shall separate from their solid waste prior to collection of the solid waste for disposal all target recyclables.

(C) All commercial haulers shall and are hereby required to obtain a license from the Alamance County Health Department issued pursuant to the Alamance County Solid Waste Ordinance prior to entering into the collection or transportation of target recyclables.

(D) All commercial haulers which collect or transport target recyclables from residential generators shall transport and dispose of those target recyclables at the facility. No target recyclable from residential generators shall be transported outside of the boundaries of the County of Alamance except when necessary as part of a normal collection route or as necessary as the most direct route to the facility.

(E) It shall be a violation of this chapter for anyone to place any garbage, trash, or refuse in a container for target recyclables provided the container is marked so as to indicate it is to be used only for target recyclables.

(Res. passed 11-4-91) Penalty, see § 50.99

§ 50.05 UNAUTHORIZED PICK-UP.

(A) It shall be a violation of this chapter for any person unauthorized by the County of Alamance, for those areas outside of the territorial limits of any municipality located in Alamance County, or unauthorized by any municipality, for those areas within the territorial limits of such municipality, to collect or pick-up or cause to be collected or picked up any target recyclable which has been placed at the curb by any residential generator or commercial generator for collection, or placed in a container or box by a residential or commercial generator for collection or pick-up by a commercial hauler.

(B) It shall be a violation of this chapter for any person unauthorized by the County of Alamance to collect or pick-up or cause to be collected or picked up any target recyclable placed in a drop-off center provided for the use of the public by virtue of or on account of a contract with the County of Alamance.

(Res. passed 11-4-91) Penalty, see § 50.99

§ 50.99 PENALTY.

(A) Any violation of this chapter is a misdemeanor punishable by fine of not more than \$500 or imprisonment for not more than 30 days, or both fine and imprisonment. For a continuing offense, each days violation is a separate offense.

(B) This chapter may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.

(Res. passed 11-4-91)

CHAPTER 51: WATER AND SEWER SYSTEM REGULATIONS

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GENERAL PROVISIONS

§ 51.01 DEFINITIONS.

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

B.O.D. (BIOCHEMICAL OXYGEN DEMAND). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in parts per million.

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.

DOMESTIC SEWAGE. Liquid waste from residential bathrooms, toilet rooms, kitchens, and laundries.

EXCESSIVE RADIATION DOSE. A dose of radiation in excess of the maximum permissible dose.

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

INDUSTRIAL WASTES. The polluted liquid wastes from institutional, commercial, and industrial processes and operations as distinct from domestic sewage.

MAXIMUM PERMISSIBLE DOSE. A dose of radiation to any part of the body, whether internal, external, or both, that in the light of present knowledge is not expected to cause appreciable bodily injury to a person at any time during his or her lifetime.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.

pH. The logarithm (base ten) of the reciprocal of the hydrogen ion concentration and indicates the degree of acidity or alkalinity of a substance.

ppm. Parts per million.

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.

RADIATION. Gamma rays and X-rays, alpha and beta particles, high speed electrons, neutrons, protons, and other nuclear particles; but not sound or radio waves or visible, infrared, or ultraviolet light.

RADIOACTIVE MATERIAL. Any material, whether solid, liquid, or gas, that emits radiation spontaneously.

RECEIVING STREAM. That body of water, stream, or watercourse receiving the discharge waters from the sewage treatment plant.

SANITARY SEWER. A sewer which carries domestic or industrial wastes.

SEWAGE. A combination of the water-carried wastes from residences, business buildings, institutions, industrial establishments, and the like.

SEWAGE COLLECTION SYSTEM. All local facilities for collecting and pumping sewage.

SEWAGE TREATMENT PLANT. Any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS. All facilities for collecting, pumping, treating, and disposing of sewage.

SEWER. A pipe or conduit for carrying sewage.

SUSPENDED SOLIDS. Solids that either float on the surface of or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering.

STORM SEWER* or *STORM DRAIN. A sewer which carries storm and surface waters and drainage but excludes domestic sewage and industrial wastes.
(‘87 Code, § 50.01) (Ord. passed 12-2-74; Am. Ord. passed 2-6-78)

§ 51.02 CHAPTER INCORPORATED IN CONTRACT FOR SERVICE.

All pertinent provisions of this chapter are hereby made a part of the terms and conditions whereby the town furnishes sewer or water service to any person, or whereby the town makes any sewer or water connections or performs any work of any kind in connection with the furnishing of sewer or water service.
(‘87 Code, § 50.02) (Ord. passed 12-2-74)

§ 51.03 WATER AND SEWER CONNECTION REQUIRED.

(A) Within 30 days after the time when any water main in any street is completed and ready for use, the owner of every abutting lot within the town limits whereon water is supplied for any human use shall cause the lot to be connected with the water main. Within 30 days after the time when any sewer main in any street is completed and ready for use, if a water main has been installed in the street, the owner of any abutting lot within the town limits having thereon improvements for human occupancy shall cause a water closet and sink to be installed and to be connected with the sewer main and shall cause all other sewer facilities within the improvements, if any, to be connected with the sewer main. However, the owner of the premises shall be notified in writing by the town of the installation of the water main or the installation of the sanitary sewer and shall be allowed 30 days after the written notice within which to make the required connection or connections, provided the owner can make the sewer connection within 200 feet and the water connection within 300 feet of the lot on which the house stands, and

provided further that an easement can be secured whenever it is necessary to cross the private property of any other person to make the connections.

(1) No property will be required to connect to the town's water distribution system or the town's sewer collection system if an appropriate well system or septic system is located on the property and is in working order.

(2) If the well system or septic system malfunctions by any means, connection to the town's water distribution system or sewer collection system is mandatory.

(3) No connection to the town's sewer collection system can be made unless the property is connected to the town's water distribution system.

(4) At which time the town's sewer system becomes available and the property owner wishes to remain on a well system, the property owner must submit evidence that the water from the well system is potable. The test date of the well system must be within 30 days from the date of availability of the town's water system.

(B) Water or sewer laterals laid as a part of any water or sewer main improvement shall be laid only to the inside of the curb unless in the resolution ordering the improvement the Town Council specifically directs otherwise.

(1) After laterals are laid from water or sewer mains to the inside of the curb, no such lateral shall be extended to the property line until the owner or occupant of the property to be served thereby applies therefor.

(2) The construction of laterals for the connection of the sewer or water pipes on any lot with sewer or water pipes in any street and necessary excavation therefor shall be done only by the town.

(3) No connection shall be made to any sewage or water lateral except after the written application therefor has been approved by the Plumbing Inspector.

(C) Upon approval of any application for a sewer or water connection, the town shall do the excavation, lay the pipe, install the meter where necessary, make the connection to the main, fill the excavation, and replace the surface of the street.

(D) Every sewer connection made directly to a main shall be made at the "Y" provided for the lot to be served; but if no "Y" has been provided for the lot, then the connection may be made directly to the main at any convenient point.

(E) The following shall be the general rule for the maintenance of water and sewer connections.

(1) It will be the responsibility of the town to maintain that portion of any water connection in a public right-of-way or easement from the water main to and including the water meter. It shall be the property owner or consumer's responsibility to maintain any water lateral lines from the meter to the connection destination.

(2) It will be the responsibility of the property owner to maintain any sewer service connection, including the removal of all blockages. Such responsibility begins at the point where the service connection connects to the sewer main and extends throughout the length of said connection.

('87 Code, § 50.03) (Ord. passed 12-2-74; Am. Ord. passed 11-1-99; Am. Ord. passed 5-3-10) Penalty, see § 10.99

Statutory reference:

Power to require connections, see G.S. § 160A-317

§ 51.04 APPLICATION FOR CONNECTION.

Every application for a sewer or water connection shall state the name of the owner of the lot; the name of the street on which the lot is situated; the number of the house, if there is one on the lot, or, if not, a description of the location of the lot; the number and kind of connections desired; and the character of surface of the abutting street. Every application shall be signed by the person making the application, shall be accompanied by the proper fee for making the connection applied for, and shall be filed with the Town Manager. All sewer and water taps made to and upon the town's mains shall be paid for in cash at the prevailing rate of cost for these taps before any tap is made.

('87 Code, § 50.04) (Ord. passed 12-2-74)

§ 51.05 SEPARATE CONNECTION REQUIRED FOR EACH BUILDING AND UNDERGROUND IRRIGATION SYSTEM.

Every house or building abutting any water or sewer main and requiring a water or sewer connection shall be separately and independently connected, except in those cases where laterals have already been laid on macadam or improved streets from such main without provision being made for such house or building, in which case the connection may be made to an existing lateral. When two or more houses or units are connected with the same water lateral, a separate meter shall be provided for each house or unit. If the house or building is on a macadam or improved street where laterals have not been laid, the connection may be made to any convenient lateral. When property has new in-ground irrigation systems connected to the water system it must be on separate meters to more easily distinguish irrigation use from other household water use.

('87 Code, § 50.05) (Ord. passed 12-2-74; Am. Ord. passed 6-1-09) Penalty, see § 10.99

§ 51.06 OWNERSHIP AND MAINTENANCE OF METERS AND EQUIPMENT.

(A) All meters, meter boxes, pipes, and other equipment furnished and used by the town in installing any water or sewer connection shall be and remain the property of the town.

(B) All meters, except those required to be furnished by particular users of water, shall be kept in good repair and working order by the town and at the expense of the town. Meters furnished by particular users of water shall be kept in good repair and working order by the town but the expense thereof shall be borne by these users.

('87 Code, § 50.06) (Ord. passed 12-2-74)

§ 51.07 CONNECTION FROM OUTSIDE OF TOWN.

No connection of any water or sewer line or system outside the town shall be made to the town's system except by permission and on such terms as the Town Council shall prescribe.

('87 Code, § 50.07) (Ord. passed 12-2-74) Penalty, see § 10.99

WATER RATES AND BILLING**§ 51.20 WATER RATES.**

(A) The current schedule of water rates (as approved annually by the Town Council) on file in the office of the Town Manager is hereby incorporated by reference as though set forth herein in full.

(B) Water shall be furnished to consumers at metered rates only. However, water shall be furnished to all firms, corporations, or organizations within the town principally engaged in providing outdoor facilities for public athletic contests, swimming, boating, racing, or supervised public recreation for a flat rate monthly charge established from time to time by the Town Council, regardless of whether any charge is made by the firm, corporation, or organization for admission of participants or spectators.

('87 Code, § 50.10) (Ord. passed 12-2-74; Am. Ord. passed 10-7-13)

§ 51.21 DEPOSIT BY TENANT REQUIRED.

(A) When any tenant of any premises makes application for water to be furnished to the premises, he or she shall be required to make a deposit as hereinafter set out to guarantee the payment of water rent. If at the expiration of the time limited by § 51.22 for the payment of water rent for any month the tenant has failed to pay his or her water rent due for that month, that portion of the deposit as may be

necessary shall be applied to the payment of the water rent. If a tenant vacates the premises without notifying the Water Department and having the water cut off, he or she shall forfeit any balance of the deposit remaining after the water rent due has been deducted therefrom. The amount of the required deposits, whether the premises are inside or outside the corporate limits, shall be as follows.

- (1) For any premises used as a dwelling house, the deposit shall be \$100.
- (2) For any premises used as a small business, the deposit shall be \$100.
- (3) For any premises used as a large business, the deposit shall be \$100.

(B) The making of the deposit required by division (A) shall not operate to relieve the owner of any premises of liability for the payment of any water bill incurred thereon by any tenant of the premises, except to the extent of the deposit. Every landlord renting or leasing premises to tenants required by division (A) of this section to make a deposit shall immediately notify the Water Department upon the vacation of the rented or leased premises by the tenant.

('87 Code, § 50.11) (Ord. passed 12-2-74; Am. Ord. passed 6-2-97; Am. Ord. passed 6-1-09) Penalty, see § 10.99

§ 51.22 READING OF METERS; BILLING.

Meters shall be read monthly and bills therefor shall be payable on or before the fifteenth day of each month.

('87 Code, § 50.12) (Ord. passed 12-2-74; Am. Ord. passed 10-7-13)

§ 51.23 DELINQUENT ACCOUNTS.

(A) Any bill for water service furnished to any dwelling house, business establishment, industry, or other building remaining unpaid and overdue 15 days after the first day of the month in which the bill is rendered shall become delinquent.

(B) If the account is delinquent at 8:00 a.m. on the twenty-eighth day of the month, water service to the dwelling, house, business establishment, industry, or other building shall be discontinued unless the appeal procedure of § 51.24 has been invoked.

(C) Before service is resumed, the delinquent account must be settled in full and cut-on fee of \$20 be paid.

(D) When any water service or supply is cut off or discontinued pursuant to division (B), it shall be unlawful for any person, firm, or corporation, other than the town or its agents or employees, to turn or cut on or off the water service or supply to the property or to use the same in connection with the property without first having paid all water rent due and obtaining permission to turn on the water. Anyone convicted of cutting on or off any water service or supply or otherwise tampering with or altering the town's water distribution system contrary to and in violation of this division shall pay a fine or penalty of \$25 for each offense.

(E) The water meter may be removed or locked at any time for nonpayment of the account, and a fee of \$20 shall be charged for reinstallation of the water service.

('87 Code, § 50.13) (Ord. passed 12-2-74; Am. Ord. passed 11-6-00; Am. Ord. passed 10-7-13)

§ 51.24 APPEAL PROCEDURE FOR DISPUTED CHARGES.

(A) Any customer of the Town Water Department who questions or disputes his or her bill or the amount of his or her charges may request a hearing with a representative of the town to resolve the dispute.

(B) The request for the hearing must be made no later than the fifteenth day of the month on which the bill is dated.

(C) The Town Manager is hereby authorized to hear all such disputes and contested matters and to represent the town in resolving the disputed and contested matters.

(D) Any customer may appeal the decision of the Town Manager to the Town Council at its next scheduled meeting, and the decision of a majority of the Town Council present at the meeting will be final.

('87 Code, § 50.14) (Ord. passed 12-3-79; Am. Ord. passed 10-7-13)

EXTENSION OF MAINS

§ 51.35 COMPLIANCE REQUIRED.

No extension to the water or sanitary sewer system of the town shall be made, and no application shall be approved except in accordance with the requirements of this subchapter.

('87 Code, § 50.20) (Ord. passed 12-2-74) Penalty, see § 10.99

§ 51.36 APPLICATION FOR EXTENSION.

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

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

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

('87 Code, § 50.21) (Ord. passed 12-2-74)

§ 51.37 REQUIREMENTS GOVERNING EXTENSIONS.

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

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

(B) The size of water mains and sanitary sewer mains to be installed and the other required system facilities shall be determined by the Town Council in accordance with recognized standards and accepted engineering practices and design and in accordance with applicable system plans adopted by the Town Council.

(‘87 Code, § 50.22) (Ord. passed 12-2-74)

§ 51.38 EXTENSION TO APPROVED SUBDIVISION WITHIN TOWN LIMITS.

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

(B) When an approved water or sanitary sewer extension project has been completed, the cost based on a front foot basis shall be assessed against the property owners whose property abuts upon the extension. The assessment shall be at an equal rate per front foot or such other basis of assessment as authorized in G.S. § 160A-218, on a project-by-project basis. The remaining cost of the extensions shall be borne by the town from funds appropriated for this purpose. The current policy of assessment cost will be on file in the office of the Town Manager.

(C) Any property owner shall have the opportunity to pay his or her proportionate share of the cost of the extension after the assessment roll is confirmed rather than paying his or her share in equal annual installments with interest as required by G.S. § 160A-232.

(‘87 Code, § 50.23) (Ord. passed 12-2-74)

§ 51.39 EXTENSION TO PROPOSED SUBDIVISION WITHIN TOWN LIMITS.

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

(B) Prior to the beginning of any construction, the property owner shall advance to the town funds in an amount equal to the total estimated cost of the assessments of the proposed extensions. Upon

receipt of these funds, a written contract shall be entered into between the town and the property owner, under which the responsibilities of each party will be enumerated.

(C) The town will finance from its funds appropriated for this purpose the remaining cost of extensions.

(D) An engineering fee of \$80 per lot shall be paid, in advance, to the town by the owner of the subdivision to be developed. These fees are for planning, drafting, bidding, and inspecting of water or sanitary sewers only.

(E) The size of the mains shall be determined by the town.
(‘87 Code, § 50.24) (Ord. passed 12-2-74)

§ 51.40 EXTENSION WITHOUT APPLICATION.

Nothing in this subchapter shall prevent the Town Council from extending water or sanitary sewer mains or both within the corporate limits on their own motion without receipt of an application from property owners and to assess the cost of these extensions in accordance with § 51.38(C) when, in the opinion of the Town Council, the general public interest demands the extension of service.
(‘87 Code, § 50.25) (Ord. passed 12-2-74)

CROSS CONNECTION CONTROL

§ 51.50 INTRODUCTION.

(A) The purpose of this subchapter is to define the authority of the Public Works Department of the Town of Haw River as the water purveyor in the elimination of all cross connections within its public potable water supply.

(B) This subchapter shall apply to all users connected to the Public Works public potable water supply regardless of whether the user is located within the town limits or outside of the town limits.

(C) This subchapter will comply with the Federal Safe Drinking Water Act (P.L. 93-523), the North Carolina State Administrative Code (Title 15A, Subchapter 8C), and the North Carolina State Building Code (Volume II) as they pertain to cross connections with the public water supply.
(Ord. passed 1-7-08)

§ 51.51 OBJECTIVES.

The specific objectives of this subchapter for the Public Works Department of the Town of Haw River are as follows:

(A) To protect the public potable water supply of the Town of Haw River against actual or potential contamination by isolating within the consumer's water system, contaminants or pollutants which could, under adverse conditions, backflow through uncontrolled cross connections into the public water system.

(B) To eliminate or control existing cross connections, actual or potential, between the consumer's potable water system(s) and nonpotable or industrial piping system(s).

(C) To provide a continuing inspection program of cross connection control which will systematically and effectively control all actual or potential cross connections which may be installed in the future.

(Ord. passed 1-7-08)

§ 51.52 RESPONSIBILITIES.

(A) *Responsibility: health agency.*

(1) The North Carolina Department of Environment, Health, and Natural Resources (Division of Health Services) has the responsibility for promulgating and enforcing laws, rules, regulations, and policies to be followed in carrying out an effective Cross Connection Control Program.

(2) The N.C. Division of Health Services also has the primary responsibility of insuring that the water purveyor operates the public potable water system free of actual or potential sanitary hazards, including unprotected cross connections.

(3) They have the further responsibility of insuring that the water purveyor provides an approved water supply at the service connection to the consumer's water system and, further, that he requires the installation, testing, and maintenance of an approved backflow prevention assembly on the service connection when required.

(B) *Responsibility: water purveyor.* Except as otherwise provided herein, the water purveyor's (Public Works Department's) responsibility to ensure a safe water supply, begins at the source and includes all of the public water distribution system, including the service connection, and ends at the point of delivery to the consumer's water system(s). In addition, the water purveyor shall exercise reasonable vigilance to insure that the consumer has taken the proper steps to protect the public potable water system. To insure that the proper precautions are taken, the Public Works Department is required to determine the degree of hazard or potential hazard to the public potable water system; to determine the degree of protection required; and to ensure proper containment protection through an on-going inspection program. When it is determined that a backflow prevention assembly is required for the protection of the public system, the Public Works Department shall require the consumer, at the

consumer's expense, to install an approved backflow prevention assembly at each service connection, to test immediately upon installation and thereafter at a frequency as determined by the Public Works Department, to properly repair and maintain such assembly or assemblies and to keep adequate records of each test and subsequent maintenance and repair, including materials and/or replacement parts.

(C) *Responsibility: plumbing inspections.* The plumbing inspection departments of the Alamance County have the responsibility to not only review building plans and inspect plumbing as it is installed; but, they have the explicit responsibility of preventing cross connections from being designed and built into the plumbing system within its jurisdiction. Where the review of building plans suggests or detects the potential for cross connections being made an integral part of the plumbing system, the plumbing inspector has the responsibility, under the North Carolina Building Code, for requiring that such cross connections be either eliminated or provided with backflow prevention equipment approved by the North Carolina Building Code. The plumbing inspector's responsibility begins at the point of delivery (downstream of the first installed backflow prevention assembly) and continues throughout the entire length of the consumer's water system. The plan inspector should inquire about the intended use of water at any point where it is suspected that a cross connection might be made or where one is actually called for by the plans. When such is discovered it shall be mandatory that a suitable, approved backflow prevention assembly approved by the North Carolina Building Code be required by the plans and be properly installed. The primary protection assembly for containment purposes only shall have approval from the Public Works Department, the North Carolina Building Code, and the North Carolina Department of Environment, Health, and Natural Resources.

(D) *Responsibility: consumer.* The consumer has the primary responsibility of preventing pollutants and contaminants from entering his potable water system(s) or the public potable water system. The consumer's responsibility starts at the point of delivery from the public potable water system and includes all of his or her water system(s). The consumer, at his or her own expense, shall install, operate, test, and maintain approved backflow prevention assemblies as directed by the Public Works Department. The consumer shall maintain accurate records of tests and repairs made to backflow prevention assemblies and shall maintain such records for a minimum period of three years. The records shall be on forms approved by Public Works Department and shall include the list of materials or replacement parts used. Following any repair, overhaul, repiping or relocation of an assembly, the consumer shall have it tested to insure that it is in good operating condition and will prevent backflow. Tests, maintenance and repairs of backflow prevention assemblies shall be made by a certified backflow prevention assembly tester.

(E) *Responsibility: certified backflow prevention assembly tester.* When employed by the consumer to test, repair, overhaul, or maintain backflow prevention assemblies, a backflow prevention assembly tester will have the following responsibilities: The tester will be responsible for making competent inspections and for repairing or overhauling backflow prevention assemblies and making reports of such repair to the consumer and responsible authorities on forms approved by the Public Works Department. The tester shall include the list of materials or replacement parts used. The tester shall be equipped with and be competent to use all the necessary tools, gauges, manometers and other equipment necessary to properly test, repair, and maintain backflow prevention assemblies. It will be the tester's responsibility to insure that original manufactured parts are used in the repair of or replacement of parts in a backflow prevention assembly. It will be the tester's further responsibility not to change the design, material or

operational characteristics of an assembly during repair or maintenance without prior approval of the Public Works Department. A certified tester shall perform the work and be responsible for the competency and accuracy of all tests and reports. A certified tester shall provide a copy of all test and repair reports to the consumer and to the Public Works Cross Connection Control Department within ten business days of any completed test or repair work. A certified tester shall maintain such records for a minimum period of three years. All certified backflow prevention assembly testers must obtain and employ backflow prevention assembly test equipment which has been evaluated and/or approved by the Public Works Department. All test equipment shall be registered with the Public Works Department/Cross Connection Control Department. All test equipment shall be checked for accuracy annually (at a minimum), calibrated, if necessary, and certified to Public Works Department as to such calibration, employing an accuracy/calibration method acceptable to Public Works Department. All certified backflow prevention assembly testers must become re-certified every two years through an approved backflow prevention certification program.

(Ord. passed 1-7-08)

§ 51.53 DEFINITIONS.

AIR-GAP SEPARATION. A physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel. An approved air-gap separation shall be at least double the diameter of the supply pipe measured vertically above the overflow rim of the receiving vessel - in no case less than one inch (2.54 cm).

APPROVED. As herein used in reference to a water supply shall mean a water supply that has been approved by the North Carolina Department of Environment, Health, and Natural Resources (Division of Health Services). The term approved as herein used in reference to air-gap separation, a pressure vacuum breaker, a double check valve assembly, a double check detector assembly, a reduced pressure principle backflow prevention assembly, a reduced pressure principle detector assembly, or other backflow prevention assemblies or methods shall mean an approval by the Public Works Department.

BACKFLOW. The undesirable reversal of flow of water or mixtures of water and other liquids, gases, or other substances into the distribution pipes of the consumer or public potable water system from any source or sources.

BACKFLOW PREVENTION ASSEMBLY-APPROVED.

(1) An assembly used for containment and/or isolation purposes that has been investigated and approved by the Public Works Department and has been shown to meet the design and performance standards of the American Society of Sanitary Engineers (ASSE), the American Water Works Association (AWWA), or the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California.

(2) The approval of backflow prevention assemblies by the Public Works Department is based on a favorable report by the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California, recommending such an approval. (To be approved, an assembly must

be readily accessible for in-line testing and maintenance, and shall successfully complete a one-year field evaluation within the Public Works Department water system).

BACKFLOW PREVENTION DEVICE - APPROVED. A device used for isolation purposes that has been shown to meet the design and performance standards of the American Society of Sanitary Engineers (ASSE) and the American Water Works Association (AWWA).

BACKFLOW PREVENTION ASSEMBLY - UNAPPROVED. An assembly that has been investigated by the Public Works Department and has been determined to be unacceptable for installation within the Public Works Department water system. Consideration for disapproval and removal from the approved list shall be based upon, but not limited to, the following criteria: (1) due to poor performance standards (such as significant failure rate); (2) lack of or unavailability of repair parts; and/or, (3) poor service or response from assembly's factory representative(s).

BACKFLOW PREVENTION ASSEMBLY TYPE. An assembly used to prevent backflow into a consumer or public potable water system. The type of assembly used should be based on the degree of hazard either existing or potential (as defined herein). The types are:

- (1) Double Check Valve Assembly (DCVA).
- (2) Double Check Detector Assembly (Fire System) (DCDA).
- (3) Pressure Vacuum Breaker (PVB).
- (4) Reduced Pressure Principle Assembly (RP).
- (5) Reduced Pressure Principle-Detector Assembly (Fire System) (RPDA).

BACKFLOW PREVENTION ASSEMBLY TESTER-CERTIFIED. A person who has proven their competency to the satisfaction of the Public Works Department. Each person who is certified to make competent tests, or to repair, overhauls, and make reports on backflow prevention assemblies shall be knowledgeable of applicable laws, rules, and regulations, shall be a licensed plumber or have at least two years experience under and be employed by a N.C. licensed plumber or plumbing contractor, or have equivalent qualifications acceptable to Public Works Department, and must hold a certificate of completion from an approved training program in the testing and repair of backflow prevention assemblies. Backflow assembly testers who hold a certificate of completion from an approved training program shall be required to successfully complete a practical examination administered by Public Works Department, prior to conducting test and repair work on backflow prevention assemblies in the Public Works Department water system. Backflow assembly testers who hold a certificate of completion from a non-approved training program, shall be required, to successfully complete a written and practical examination administered by Public Works Department, prior to conducting test and repair work on backflow prevention assemblies in the Public Works Department water system.

BACK-PRESSURE BACKFLOW. Any elevation in the consumer water system (by pump, elevation of piping, or steam and/or air pressure) above the supply pressure at the point of delivery which would cause or tend to cause a reversal of the normal direction of flow.

BACK-SIPHONAGE BACKFLOW. A reversal of the normal direction of flow in the pipeline due to a negative pressure (vacuum) being created in the supply line with the backflow source subject to atmospheric pressure.

CHECK VALVE - APPROVED. The term approved check valve shall mean a check valve that is drip-tight in the normal direction of flow when the inlet pressure is at least one psi and the outlet pressure is zero. The check valve shall permit no leakage in a direction reversed to the normal flow. The closure element (such as clapper, poppet, or other design) shall be internally loaded to promote rapid and positive closure). An approved check valve is only one component of approved backflow prevention assembly - such as, pressure vacuum breaker, double check valve assembly, double check detector assembly, reduced pressure principle assembly, or reduced pressure detector assembly.

CONSUMER. The term consumer shall mean any person, firm, or corporation using or receiving water from the Public Works Department water system.

CONSUMER'S WATER SYSTEM. Shall include any water system commencing at the point of delivery and continuing throughout the consumer's plumbing system, located on the consumer's premises, whether supplied by a public potable water or an auxiliary water supply. The system or systems may be either a potable water system or an industrial piping system.

CONSUMER'S POTABLE WATER SYSTEM. The term consumer's potable water system shall mean that portion of the privately owned potable water system lying between the point of delivery and point of use and/or isolation protection. This system will include all pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, store, or use potable water.

CONTAINMENT. Preventing the impairment of the public potable water supply by installing an approved backflow prevention assembly at the service connection.

CONTAMINATION. An impairment of the quality of the water which creates a potential or actual hazard to the public health through the introduction of hazardous or toxic substances or through the spread of disease by sewage, industrial fluids, or waste.

CROSS CONNECTION. Any unprotected actual or potential connection or structural arrangement between a public or a consumer's water system and any other source or system through which it is possible to introduce any contamination or pollution, other than the intended potable water with which the system is supplied. By-pass arrangements, jumper connections, removable sections, swivel or changeover devices, and other temporary or permanent devices through which or because of which backflow can or may occur are considered to be cross connections.

DOUBLE CHECK VALVE ASSEMBLY. The term double check valve assembly shall mean an assembly composed of two independently acting, approved check valves, including tightly closing

shut-off valves attached at each end of the assembly and fitted with properly located test cocks. This assembly shall only be used to protect against a non-health hazard (such as pollutant).

DOUBLE CHECK-DETECTOR ASSEMBLY. A specially designed assembly composed of a line-size approved double check valve assembly with a specific bypass water meter and a meter-sized approved double check valve assembly. The meter shall register (in U.S. gallons) accurately for only very low rates of flow and shall show a registration for all rates of flow. This assembly shall only be used to protect against a non-health hazard (such as pollutant).

HAZARD, DEGREE OF. The term degree of hazard shall be derived from the evaluation of conditions within a system which can be classified as either a pollution (non-health) or a contamination (health) hazard.

HAZARD-HEALTH. The term health hazard shall mean an actual or potential threat of contamination of a physical, hazardous or toxic nature to the public or consumer's potable water system to such a degree or intensity that there would be a danger to health.

HAZARD; NON-HEALTH. The term non-health hazard shall mean an actual or potential threat to the quality of the public or the consumer's potable water system. A ***NON-HEALTH HAZARD*** is one that, if introduced into the public water supply system could be a nuisance to water customers, but would not adversely affect human health.

HAZARD POLLUTION. An actual or potential threat to the quality or the portability of the public or the consumer's potable water system but which would not constitute a health or a system hazard, as defined. The maximum degree or intensity of pollution to which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause minor damage to the system or its appurtenances.

HEALTH AGENCY. The North Carolina Department of Environment, Health, and Natural Resources (Division of Health Services) - NCDEHNR.

INDUSTRIAL FLUIDS. Any fluid or solution which may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration such as would constitute a health, or non-health hazard if introduced into a public or consumer potable water system. Such fluids may include, but are not limited to: process waters; chemicals in fluid form; acids and alkalis; oils, gases and the like.

INDUSTRIAL PIPING SYSTEM; CONSUMER'S. Any system used by the consumer for transmission of or to confine or store any fluid, solid or gaseous substance other than an approved water supply. Such a system would include all pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, or store substances which are or may be polluted or contaminated.

ISOLATION. The act of confining a localized hazard within a consumer's water system by installing approved backflow prevention assemblies. Disclaimer: Public Works Department may make

recommendations, upon facility inspection, as to the usages of isolation devices/assemblies, but does not assume or have responsibility whatsoever for such installations.

POINT OF DELIVERY. Shall generally be at the property line of the customer, adjacent to the public street where the Public Works Department's mains are located or at a point on the customer's property where the meter is located. The customer shall be responsible for all water piping and control devices located on the customer's side of the point of delivery.

POLLUTION. An impairment of the quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect the aesthetic qualities of such waters for domestic use.

POTABLE WATER. Water from any source which has been investigated by the North Carolina Department of Environment, Health, and Natural Resources (Division of Health Services) and which has been approved for human consumption.

PUBLIC POTABLE WATER SYSTEM. Any publicly or privately owned water system operated as a public utility, under a current North Carolina Department of Environment, Health, and Natural Resources permit, to supply water for public consumption or use. This system will include all sources, facilities, and appurtenances between the source and the point of delivery such as valves, pumps, pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, treat, or store a potable water for public consumption or use.

REDUCED PRESSURE PRINCIPLE BACKFLOW PREVENTION ASSEMBLY. An assembly containing within its structure a minimum of two independently acting, approved check valves, together with a hydraulically operating, mechanically independent, pressure differential relief valve located between the check valves and at the same time below the first check valve. The first check valve reduces the supply pressure a predetermined amount so that during normal flow and at cessation of normal flow, the pressure between the checks shall be less than the supply pressure. In case of leakage of either check valve, the pressure differential relief valve, by discharge to atmosphere, shall operate to maintain the pressure between the checks less than the supply pressure. The unit shall include tightly closing shut-off valves located at each end of the assembly and each assembly shall be fitted with properly located test cocks. The assembly is designed to protect against a health hazard (such as contaminant).

REDUCED PRESSURE PRINCIPLE-DETECTOR ASSEMBLY. A specially designed assembly composed of a line-size approved reduced pressure principle backflow prevention assembly with a specific bypass water meter and a meter sized approved reduced pressure principle backflow prevention assembly. The meter shall register (in U.S. gallons) accurately for only very low rates of flow and shall show a registration for all rates of flow. This assembly shall be used to protect against health hazard (such as contaminant).

SERVICE CONNECTIONS. The terminal end of a service connection from the public potable water system, such as where the Public Works Department loses jurisdiction and sanitary control over the water at its point of delivery to the consumer's water system.

VACUUM BREAKER-ATMOSPHERIC TYPE. The terminal end of a service connection from the public potable water system, such as where the Public Works Department loses jurisdiction and sanitary control over the water at its point of delivery to the consumer's water system.

VACUUM BREAKER- PRESSURE TYPE. The term pressure vacuum breaker shall mean an assembly containing an independently operating internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. The assembly is to be equipped with properly located test cocks and tightly closing shut-off valves attached at each end of the assembly. This assembly is designed to protect against a health hazard (such as contaminant) under a back siphonage condition only.

WATER PURVEYOR. The term water purveyor shall mean the owner or operator of a public potable water system, providing an approved water supply to the public.

WATER SUPPLY- APPROVED. The term approved water supply shall mean any public potable water supply which has been investigated and approved by the North Carolina Department of Environment, Health and Natural Resources. The system must be operating under a valid health permit. In determining what constitutes as approved water supply, the North Carolina Division of Health Services has reserved the final Judgment as to its safety and portability.

WATER SUPPLY AUXILIARY. The term auxiliary water supply shall mean any water supply on or available to the premises other than the purveyor's approved public potable water supply. This auxiliary water may include water from another purveyor's public water supply or any natural source such as well, spring, river, stream and the like, used water, or industrial fluids. These waters may be polluted, contaminated, or objectionable and constitute an unacceptable water source over which the water purveyor does not have sanitary control.

WATER SUPPLY- UNAPPROVED. The term unapproved water supply shall mean a water supply which has not been approved, for human consumption, by the North Carolina Department of Environment, Health, and Natural Resources.

WATER- USED. The term used water shall mean any water supplied by a water purveyor from a public water system to a consumer's water system after it has passed through the point of delivery and is no longer under the control of the water purveyor.
(Ord. passed 1-7-08)

§ 51.54 RIGHT OF ENTRY.

(A) Authorized representative(s) from Public Works Department shall have the right to enter, upon presentation of proper credentials and identification, any building, structure, or premises during normal business hours, or at any time during the event of an emergency, to perform any duty imposed by this subchapter. Those duties may include sampling and testing of water, or inspections and observations of all piping systems connected to the public water supply.

(B) Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with the security guards so that upon presentation of suitable identification, Public Works Department personnel will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Refusal to allow entry for these purposes may result in discontinuance of water service.

(C) On request, the consumer shall furnish to the Department any pertinent information regarding the water supply system on such property where cross connections and backflow are deemed possible. (Ord. passed 1-7-08)

§ 51.55 ELIMINATION OF CROSS CONNECTIONS; DEGREE OF HAZARD.

When cross connections are found to exist, the owner, his or her agent, occupant, or tenant will be notified in writing to disconnect the same within the time limit established by the Public Works Department. Degree of protection required and maximum time allowed for compliance will be based upon the potential degree of hazard to the public water supply system. The maximum time limits are as follows:

(A) Cross connections with private wells or other auxiliary water supplies immediate disconnection.

(B) All facilities which pose a health hazard to the potable water system must have a containment assembly in the form of a reduced pressure principle backflow prevention assembly within 60 days.

(C) All industrial and commercial facilities not identified as a health hazard shall be considered non-health hazard facilities. All non-health hazard facilities must install, as a minimum containment assembly, a double check valve assembly within 90 days.

(D) If, in the judgment of the Public Works Department, an imminent health hazard exists, water service to the building or premises where a cross connection exists may be terminated unless an air gap is immediately provided, or the cross connection is immediately eliminated.

(E) Based upon recommendation from the Public Works Department, the consumer is responsible for installing sufficient internal isolation backflow prevention assemblies and/or methods (such as air gap, pressure vacuum breakers, reduced pressure principle backflow prevention assembly, double check valve assembly).

(F) Water mains served by the Town of Haw River but not maintained by the Public Works Department should be considered cross connections, with degree of hazard to be determined by Public Works Department. Degree of protection shall be based upon the degree of hazard, as determined by Public Works Department.

(G) In the event that a Public Works Department Cross Connection Control Inspector does not have sufficient access to every portion of a private water system (such as classified research and development

facilities; federal government property) to allow a complete evaluation of the degree of hazard associated with such private water systems, an approved reduced pressure principle assembly shall be required as a minimum of protection.

(H) No person shall fill special use tanks or tankers containing pesticides, fertilizers, other toxic chemicals or their residues from the public water system except at a location equipped with an air gap or an approved reduced pressure principle backflow prevention assembly properly installed on the public water supply.

(Ord. passed 1-7-08)

§ 51.56 INSTALLATION OF ASSEMBLIES.

(A) All backflow prevention assemblies shall be installed in accordance with the specifications furnished by the Public Works Department and/or the manufacturer's installation instructions and/or in the latest edition of the North Carolina Building Code, whichever is most restrictive.

(B) All new construction plans and specifications, when required by the North Carolina Building Code and the North Carolina Division of Health Services (NCDEHNR) shall be made available to the Public Works Department for review and approval, and to determine the degree of hazard.

(C) Ownership, testing, and maintenance of the assembly shall be the responsibility of the customer.

(D) All double check valve assemblies must be installed in drainable pits wherever below ground installation is necessary, in accordance with detailed specifications provided by the Public Works Department.

(E) (1) Reduced pressure principle assemblies must be installed in a horizontal position and in a location in which no portion of the assembly can become submerged in any substance under any circumstances (pit and/or below grade installations are prohibited).

(2) Double check valve assemblies may be installed in a vertical position with prior approval from the Public Works Department provided the flow of water is in an upward direction.

(F) The installation of a backflow prevention assembly which is not approved must be replaced with an approved backflow prevention assembly.

(G) (1) The installer is responsible to make sure a backflow prevention assembly is working properly upon installation and is required to furnish the following information to the Public Works Department's Cross Connection Control Program Department within 15 days after a reduced pressure principle backflow preventer (RP), double check-detector assembly (DCDA), pressure vacuum breaker (PVB), double check-detector assembly (DCDA), or reduced pressure principle detector assembly (RPDA) is installed:

(a) Service address where assembly is located;

- (b) Owner (and address, if different from service address);
- (c) Description of assembly's location;
- (d) Date of installation;
- (e) Installer (include name, plumbing company represented, plumber's license number, and project permit number);
- (f) Type of assembly, size of assembly;
- (g) Manufacturer, model number, serial number;
- (h) Test results/reports;

(2) When it is not possible to interrupt water service, provisions shall be made for a parallel installation of backflow prevention assemblies. The Public Works Department will not accept an unprotected bypass around a backflow preventer when the assembly is in need of testing, repair, or replacement.

(H) The consumer shall, upon notification, install the appropriate containment assembly not to exceed the following time frame:

Health Hazard	60 days
Non-Health Hazard	90 days

(I) Following installation, all RP, DCVA, PVB, DCDA, and RPDA are required to be tested by a certified backflow prevention assembly tester within ten days.
(Ord. passed 1-7-08)

§ 51.57 TESTING AND REPAIR OF ASSEMBLIES.

(A) Testing of backflow prevention assemblies shall be made by a certified backflow prevention assembly tester or may be contracted out to the Public Works Department Cross Connection Control Department at the customer's expense. Such tests are to be conducted upon installation and annually thereafter or at a frequency established by Public Works Department's regulations. A record of all testing and repairs is to be retained by the customer. Copies of the records must be provided to the Public Works Department's Cross Connection Control Department within ten business days after the completion of any testing and/or repair work.

(B) Any time that repairs to backflow prevention assemblies are deemed necessary, whether through annual or required testing or routine inspection by the owner or by the Public Works Department, these repairs must be completed within a specified time in accordance with the degree of hazard. In no case shall this time period exceed:

(1) Health hazard facilities - 14 days.

(2) Non-health hazard facilities - 21 days.

(3) All backflow prevention assemblies with test cocks are required to be tested annually or at frequency established by Public Works Department's regulations. Testing requires a water shutdown usually lasting five to 20 minutes. For facilities that require an uninterrupted supply of water, and when it is not possible to provide water service from two separate meters, provisions shall be made for a parallel installation of backflow prevention assemblies.

(4) All certified backflow prevention assembly testers must obtain and employ backflow prevention assembly test equipment which has been evaluated and/or approved by the Public Works Department. All test equipment shall be registered with the Public Works Department Cross Connection Control Department. All test equipment shall be checked for accuracy annually (at a minimum), calibrated, if necessary, and certified to Public Works Department as to such accuracy/calibration, employing a calibration method acceptable to Public Works Department.

(5) It shall be unlawful for any customer or certified tester to submit any record to the Public Works Department which is false or incomplete in any material respect. It shall be unlawful for any customer or certified tester to fail to submit to Public Works Department any record which is required by this subchapter. Such violations may result in any of the enforcement actions outlined in § 51.61. (Ord. passed 1-7-08)

§ 51.58 FACILITIES REQUIRING PROTECTION.

(A) Approved backflow prevention assemblies shall be installed on the service line to any premises that the Public Works Department has identified as having a potential for backflow. The following types of facilities or services have been identified by the Public Works Department as having a potential for backflow of non-potable water into the public water supply system. Therefore, an approved backflow prevention assembly will be required on all such services according to the degree of hazard present. Other types of facilities or services not listed below may also be required to install approved backflow prevention assemblies if determined necessary by the Public Works Department. As a minimum requirement, all commercial services will be required to install a Double Check Valve Assembly, unless otherwise listed below.

DCVA Double Check Valve Assembly
RP Reduced Pressure Principle Assembly
DCDA Double Check Detector Assembly
RPDA Reduced Pressure Detector Assembly
AG Air Gap
PVB Pressure Vacuum Breaker

(1) Aircraft and missile plants: RP

- (2) Automotive services stations, dealerships and the like.
 - (a) No health hazard: DCVA
 - (b) Health hazard: RP
- (3) Automotive plants: RP
- (4) Auxiliary water systems:
 - (a) Approved public/private water supply: DCVA
 - (b) Unapproved public/private water supply: AG
 - (c) Used water and industrial fluids: RP
- (5) Bakeries:
 - (a) No health hazard: DCVA
 - (b) Health hazard: RP
- (6) Beauty shops/barber shops:
 - (a) No health hazard: DCVA
 - (b) Health hazard: RP
- (7) Beverage bottling plants: RP
- (8) Breweries: RP
- (9) Buildings - hotels, apartment houses, public and private buildings, or other structures having unprotected cross connections.
 - (a) (Under five stories) no health hazard: DCVA
 - (b) (Under five stories) health hazard: RP division
 - (c) (over five stories) all: RP
- (10) Canneries, packing houses, and rendering plants: RP
- (11) Chemical plants - manufacturing, processing, compounding or treatment: RP
- (12) Chemically contaminated water systems: RP

- (13) Commercial car-wash facilities: RP
- (14) Commercial greenhouses: RI.
- (15) Commercial sales establishments (department stores, malls, etc.)
 - (a) No health hazard: DCVA
 - (b) Health hazard: RP
- (16) Concrete/asphalt plants: RP
- (17) Dairies and cold storage plants: RI
- (18) Dye works: RI.
- (19) Film laboratories: RI.
- (20) Fire systems - systems $\frac{3}{4}$ (inch) to 2 (inch)
 - (a) No health hazard: DCDA
 - (b) Health hazard (booster pumps, foam, antifreeze solution, etc.): RPDA systems - 2 $\frac{1}{2}$ (inch) to 10 (inch) (or larger)
- (21) Hospitals, medical buildings, sanitariums, morgues, mortuaries, autopsy facilities, nursing and convalescent homes, medical clinics, and veterinary hospitals: RP
- (22) Industrial facilities:
 - (a) No health hazard: DCVA
 - (b) Health hazard: RP
- (23) Laundries:
 - (a) No health hazard: DCVA
 - (b) Health hazard: (i.e., dry cleaners): RP
- (24) Lawn irrigation systems (split taps):
 - (a) No health hazard: DCVA
 - (b) Health hazard: (booster pumps, chemical systems): RP

- (25) Metal manufacturing, cleaning, processing, and fabricating plants: RP
- (26) Mobile home parks:
 - (a) No health hazard: DCVA
 - (b) Health hazard: RI
- (27) Oil and gas production, storage or transmission properties: RP
- (28) Paper and paper products plants: RP
- (29) Pest control (exterminating and fumigation): RP
- (30) Plating plant: RP
- (31) Power plants: RP
- (32) Radioactive materials or substances plants or facilities handling: RP
- (33) Restaurants
 - (a) No health hazard: DCDA
 - (b) Health hazard: RP
- (34) Restricted, classified, or other closed facilities: RP
- (35) Rubber plants (natural or synthetic): RP
- (36) Sand and gravel plants: RP
- (37) Schools and colleges: RP
- (38) Sewage and storm drain facilities: RP
- (39) Swimming pools: RP
- (40) Waterfront facilities and industries: RP

(B) All assemblies and installations shall be subject to inspection and approval by the Public Works Department.

(Ord. passed 1-7-08)

§ 51.59 CONNECTIONS WITH UNAPPROVED SOURCES OF SUPPLY.

(A) No person shall connect or cause to be connected any supply of water not approved by the North Carolina Department of Environment, Heath, and Natural Resources to the water system supplied by the Public Works Department. Any such connections allowed by the Public Works Department must be in conformance with the backflow prevention requirements of this subchapter.

(B) In the event of contamination or pollution of a public or consumer potable water system, the consumer shall notify the Public Works Department immediately in order that appropriate measures may be taken to overcome and eliminate the contamination or pollution.
(Ord. passed 1-7-08)

§ 51.60 FIRE PROTECTION SYSTEMS.

(A) All connections for fire protection systems connected with the public water system, two inches and smaller, shall be protected with an approved double check valve assembly as a minimum requirement. All fire systems using toxic additives or booster pumps shall be protected by an approved reduced pressure principle assembly at the main service connection.

(B) All connections for fire protection systems connected with the public water system greater than two inches, shall be protected with an approved double check detector assembly as a minimum requirement. All fire protection systems using toxic or hazardous additives or booster pumps shall be protected by an approved reduced pressure principle detector assembly at the main service connection.

(C) All existing backflow prevention assemblies two and one-half inches and larger installed on fire protection systems (that were initially approved by the Public Works Department) shall be allowed to remain on the premises, as long as they are being properly maintained, tested and repaired as required by this subchapter. If, however, the existing assembly must be replaced (once it can no longer be repaired), or in the event of proven water theft through an unmetered source, the consumer shall be required to install an approved double check detector assembly or reduced pressure principle detector assembly as required by this provision.

(Ord. passed 1-7-08)

§ 51.61 ENFORCEMENT.

(A) The owner, manager, supervisor, or person in charge of any installation found not to be in compliance with the provisions of this subchapter shall be notified in writing with regard to the corrective action(s) to be taken. The time for compliance shall be in accordance with the provisions of this subchapter.

(B) The owner, manager, supervisor, or person in charge of any installation which remains in non-compliance after the time prescribed in the initial notification, as outlined in the provisions of this subchapter shall be considered in violation of this subchapter, and may be issued a civil citation by the

Public Works Department. Said citation shall specify the nature of the violation and the provision(s) of this subchapter violated, and further notify the offender that the civil penalty for said violation is as set forth in division (C) below and is to be paid to the Public Works Department/Town of Haw River at the office located at 403 East Main Street, Haw River, North Carolina, within 30 days. If the penalty prescribed herein is not paid within the time allowed, the Public Works Department may initiate a civil action in the nature of a debt and recover the sums set forth in division (C) below plus the cost of the action.

(C) Any offender who shall continue any violation beyond the time limit provided for in the aforementioned notification shall be subject to a civil penalty of \$1,000 per violation. Each day in which a violation of any provision of this subchapter shall occur or continue shall constitute a separate and distinct offense.

(D) If, in the judgment of Public Works Department, any owner, manager, supervisor, or person in charge of any installation found to be in non-compliance with the provisions of this subchapter, neglects their responsibility to correct any violation, it may result in discontinuance of water service until compliance is achieved.

(E) Failure of a customer or certified tester to submit any record required by this subchapter or the submission of falsified reports/records may result in a civil penalty of up to \$1,000 per violation. If a certified backflow prevention assembly tester submits falsified records to Public Works Department, the Public Works Department shall take the necessary actions to revoke certification to test backflow prevention assemblies within the potable water system for a time period not to exceed one year. The tester will then be required to complete an approved certification course to acquire a new certification. Falsification made to records/reports after becoming re-certified shall result in the permanent revocation of backflow testing certification, in addition to a civil penalty (as stated herein).

(F) Enforcement of this program shall be administered by the Director of the Public Works Department or his or her authorized representative.

(G) Requests for extension of time shall be made in writing to the Director of the Public Works Department or his or her authorized representative. All other appeals shall be made in accordance with the following procedures:

(1) Adjudicatory hearings. A customer assessed a civil penalty under this section shall have the right to an adjudicatory hearing before a hearing officer designated by the Director of the Public Works Department upon making written demand, identifying the specific issues to be contended, to the Director of the Public Works Department within 30 days following notice of final decision to assess a civil penalty. Unless such demand is made within the time specified herein, the decision on the civil penalty assessment shall be final and binding.

(2) Appeal hearings. Any decision of the Public Works Department hearing officer made as a result of an adjudicatory hearing held under division (G)(1) may be appealed by any party, to the Town of Haw River Town Council upon filing a written demand within ten days of receipt of notice of the decision. Hearings held under this section shall be conducted in accordance with Town of Haw River

Town Council hearing procedures. Failure to make written demand within the time specified herein shall bar further appeal. The Town of Haw River town Council shall make a decision on the appeal within 90 days of the date the appeal was filed and shall transmit a written copy of its decision by registered or certified mail.

(3) Official record. When a final decision is issued under division (G)(2) above, the Town of Haw River Town Council shall prepare an official record of the case that includes:

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

(4) Any customer against whom a final decision of the Public Works Department is entered, pursuant to the hearing procedure under division (G)(2) above, may appeal the order or decision by filing a written petition for judicial review within 30 days after receipt of notice by certified mail of the order or decision to the General Court of Justice of Alamance County or of the county where the order or decision is effective, along with a copy to the Town of Haw River Public Works Department. Within 30 days after receipt of the copy of the petition of judicial review, the Public Works Department shall transmit to the reviewing court the original or a certified copy of the official record, as outlined in division (G)(3) above.

(Ord. passed 1-7-08)

CHAPTER 52: SEWERS

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GENERAL PROVISIONS

§ 52.001 PURPOSE AND POLICY.

(A) This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the town and enables the town to comply with all applicable state and federal laws required by the Clean Water Act of 1977 (Pub. L. 95-217; 33 USC 1251 et seq.), the General Pretreatment Regulations promulgated by the U.S. Environmental Protection agency (40 CFR 403), G.S. Ch. 160A, Art. 16 concerning public enterprises, and section .0900 of the

North Carolina Department of Environment, Health, and Natural Resources regulations. The town's legal authority under this chapter is derived from the above referenced laws and regulations that are hereby incorporated into this chapter.

(B) The objectives of this chapter are:

- (1) To prevent the introduction of pollutants into the municipality wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
- (2) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere, or otherwise be incompatible with the system;
- (3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system;
- (4) To protect both municipal personnel who may come into contact with sewage, sludge, and effluent in the course of their employment as well as protecting the general public;
- (5) To provide for equitable distribution of the cost of operation, maintenance, and improvement of the municipal wastewater system, and;
- (6) To ensure that the municipality complies with its NPDES or nondischarge permit conditions, sludge use and disposal requirements, and any other federal or state laws which the municipal wastewater system is subject to.

(C) This chapter provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain nondomestic 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.

(D) This chapter shall apply to the town and to persons outside the town who are, by contract or agreement with the town, users of the town's POTW. Discharge of wastewater into the municipal system by industrial or other users inside or outside the town limits constitutes an agreement to abide by the provisions of this chapter. Other governmental or private owners of sanitary sewer systems which ultimately discharge to the town's POTW shall be responsible, in accordance with any executed contracts or agreements, for enforcement of the provisions of this chapter, including pretreatment provisions for users of their sanitary sewer system. Failure to comply with the provisions of this chapter, including enforcement provisions by such sanitary sewer system owners, shall constitute a violation of this chapter, and the town may take appropriate legal actions as required to ensure compliance and enforcement. Except as otherwise provided herein, the Manager or his or her designated representative of the town shall administer, implement, and enforce the provisions of this chapter.

(Ord. passed 8-1-94)

§ 52.002 DEFINITIONS.

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

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

APPROVAL AUTHORITY. The Director of the Division of Environmental Management of the North Carolina Department of Environment, Health, and Natural Resources or his or her designee.

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

(1) If the industrial user is a corporation:

(a) A principal executive officer of the level of president, secretary, or vice-president of the corporation in charge of a principal business function or another 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 if the authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) A general partner or proprietor if the industrial user is a partnership, association, or proprietorship respectively or a duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

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

(4) A designated authorized representative of any of the above if that authorization is in writing, the authorization specifies the individual or position responsible, that individual or position has responsibility for the facility operation or the environmental matters of the company, and the authorization is submitted to the town.

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

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

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

CATEGORICAL STANDARDS. National Categorical Pretreatment Standards as defined by the U.S. EPA.

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

CONTROL AUTHORITY. The town based on the town's approved Pretreatment Program under the provisions of 40 CFR 403.11.

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

DIRECTOR OF PUBLIC WORKS AND UTILITIES. The person designated by the town to supervise the operation of the publicly-owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his or her duly authorized representative. Also referred to as POTW Director.

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

FATS, OILS, GREASES (FOG). Organic polar compounds derived from animal and/or plant sources that contain multiple chain carbon triglyceride molecules. These substances may solidify or become viscous at temperatures between 32 degree Fahrenheit and 150 degrees Fahrenheit. It may be referred to as **FOG**.

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

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

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

INDUSTRIAL USER. Any **INDUSTRIAL USER** of the town's wastewater treatment system. Any person/entity which is a source of indirect discharge.

INTERFERENCE. The inhibition or disruption of the POTW treatment processes, operations, or its sludge process, use, or disposal which causes or contributes to a violation of any requirement of the POTW's NPDES or nondischarge permit. The term includes the prevention of sewage sludge use or disposal by the POTW in compliance with specified applicable state and federal statutes, regulations, or permits under and in accordance with section 405 of the Act (33 USC 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (42 USC 6901, et seq.), the

Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA), or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

MANAGER. The Town Manager appointed by the Town Council.

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

NATIONAL CATEGORICAL PRETREATMENT STANDARD or CATEGORICAL STANDARD. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 USC 1317) which applies to a specific category of industrial users and which appears in 40 CFR Chapter 1, subchapter N, 405471.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM OR NPDES PERMIT. A permit issued pursuant to section 402 of the Act (33 USC 1342) or pursuant to G.S. § 143-215.1 by the state under delegation from EPA.

NATIONAL PROHIBITIVE DISCHARGE STANDARD or PROHIBITIVE DISCHARGE STANDARD. Any regulation developed under the authority of section 307(b) of the Act and 40 CFR 403.5.

NEW SOURCE.

(1) Any source, the construction of which is commenced after the publication of proposed Categorical Pretreatment Standards under section 307(c) (33 USC 1317(c)) of the Act which will be applicable to such source, if such standard is thereafter promulgated in accordance with section 307(c), provided that:

(a) No other source is located at that site;

(b) The source completely replaces the process or production equipment of an existing source at that site; or

(c) The new wastewater generating process of the source is substantially independent of an existing source at that site, and the construction of the source creates a new facility rather than modifying an existing source at the site.

(2) For the purposes of this definition, construction or operation has commenced if the owner or operator has:

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

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

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition as stated in 40 CFR 403.3(x).

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

NONDOMESTIC POLLUTANTS. Any substances other than human excrement and household gray water. **NONDOMESTIC POLLUTANTS** include the characteristics of the wastewater (including, but not limited to, pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, and odor).

PASS THROUGH. A discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or in combination with discharges from other sources, causes a violation of the POTW's NPDES or nondischarge permit or a downstream water quality standard.

pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions.

POLLUTANT. Any “waste” as defined in G.S. § 143-213(18) and any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

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

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

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

PRETREATMENT STANDARDS AND REQUIREMENTS. Any substantive or procedural requirement related to pretreatment, including national pretreatment categorical standards and prohibitive discharge standards imposed on an industrial user.

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

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

SIGNIFICANT INDUSTRIAL USER. Any industrial user of the town's wastewater disposal system who:

- (1) Has a process wastewater discharge flow of 25,000 gallons or more per average work day,
- (2) Contributes more than 5% of any design capacity of the town's wastewater treatment plant receiving the discharge,
- (3) Is required to meet a national categorical pretreatment standard, or
- (4) Is found by the town, the NCDEM, or the U.S. EPA to have the reasonable potential for significant or adverse impact either singly or in combination with other contributing industrial users on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.

SIGNIFICANT NONCOMPLIANCE. A status of noncompliance equivalent to reportable noncompliance as defined in 15A NCAC .0903(b)(10) and 40 CFR 403.8(f)(2)(vii). A status of noncompliance is defined as:

- (1) Violations of wastewater discharge limits.
- (2) Any other violation(s) of an effluent limit that the control authority believes has caused interference or pass-through or endangered the health of the sewage treatment plant personnel or the public.
- (3) Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- (4) Violations of compliance schedule milestones.

(5) Failure to provide reports for compliance schedules, self-monitoring data, baseline monitoring reports, and other reports required for compliance.

(6) Failure to accurately report noncompliance.

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

SLUG LOADINGS. Any pollutant released in a discharge at a flow rate or concentration which will cause a violation of the specific discharge prohibitions in § 52.060 of this chapter and is of nonroutine, episodic nature including, but not limited to an accidental spill or a noncustomary batch discharge.

STATE. State of North Carolina.

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

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

TOTAL SUSPENDED SOLIDS (TSS). The total suspended matter that floats on the surface of or is suspended in water, wastewater, or other liquids and which is removable by laboratory filtering.

TOWN. The Town of Haw River.

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

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 caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

USER. Any person, including other governmental, public, or private owners of sanitary sewer systems, who contributes, causes, or permits the contribution of wastewater into the town's POTW, including contributions from mobile sources.

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

WASTEWATER DISCHARGE (CONTRIBUTION) PERMIT. As set forth in §§ 52.035 through 52.043 of this chapter.

WATERS OF THE STATE. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.
(Ord. passed 8-1-94; Am. Ord. passed 1-7-08)

§ 52.003 ABBREVIATIONS.

The following abbreviations shall have the designated meanings:

BOD	Biochemical Oxygen Demand.
CFR	Code of Federal Regulations.
COD	Chemical Oxygen Demand.
EPA	Environmental Protection Agency.
gpd	Gallons per day.
l	Liter.
mg	Milligrams.
mg/l	Milligrams per liter.
G.S.	North Carolina General Statutes.
NH ₃ N	Ammonia-Nitrogen.
NPDES	National Pollutant Discharge Elimination System.
POTW	Publicly Owned Treatment Works.
SIC	Standard Industrial Classification.
SWDA	Solid Waste Disposal Act, 42 USC 6901 et. seq.
TKN	Total Kjeldahl Nitrogen.
TSS	Total Suspended Solids.

USC

United States Code.

(Ord. passed 8-1-94)

FEES**§ 52.015 PURPOSE.**

(A) It is the purpose of this chapter to provide for the recovery of costs from users of the town wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth by the town's Schedule of Charges and Fees.

(B) All user fees shall be established by the Town Council and shall be nondiscriminatory and uniformly applied in accordance with the sewer user classifications as set forth in this chapter.
(Ord. passed 8-1-94)

§ 52.016 CHARGES AND FEES.

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.
(Ord. passed 8-1-94)

§ 52.017 BASIC USER FEE.

The basic user fee shall be determined from the costs of establishing, operating, and maintaining the sewer system. Based on all costs of operation, maintenance, and debt service, the user fee shall be established and approved by the Town Council and included in the Schedule of Charges and Fees. This fee is subject to annual review. Each user shall pay its proportionate cost based on volume of flow.
(Ord. passed 8-1-94)

§ 52.018 INDUSTRIAL SURCHARGE.

(A) Any industrial user discharging wastes with pH, BOD, or suspended solids concentrations exceeding the waste treatment facilities design capability (pH 6-9, BOD 300 mg/l, and TSS 150 mg/l), may be charged a surcharge in addition to the basic user fee. Other parameters may subsequently be identified as eligible for surcharge. Parameters shall be measured at a point following any pretreatment works acting on the wastes. The amount of surcharge will be based on a concentration and mass loading rate (pounds per day) discharged in excess of the limits stated above and will be established in the town's Schedule of Charges and Fees. The surcharge shall be determined in accordance with applicable state and federal guidelines.

(B) The volume of discharge used for the determination of loading rates for calculation of surcharges shall be based on one of the following:

(1) Metered water consumption;

(2) Other flow monitoring device that measures the actual volume of wastewater discharge (if water consumption is not metered). This device shall be installed and maintained at the user's expense with approval from the town.

(C) The character and concentration of the wastewater used to determine surcharges shall be determined by the collection and analysis of samples representative of the actual discharge. Samples shall be collected and analyzed using procedures set forth in 40 CFR 136. The determination of the character and concentration of the discharge by the town or its duly appointed representative shall be binding as a basis for charges.

(Ord. passed 8-1-94)

§ 52.019 ADDITIONAL FEES.

The town may assess fees necessary to carry out the requirements contained herein. These may include charges and fees for the cost of administering and implementing the pretreatment program. These may include, but are not limited to, costs associated with monitoring, inspections, surveillance, permitting, and review of construction plans and accidental discharge procedures.

(Ord. passed 8-1-94)

§ 52.020 OUTSIDE CORPORATE LIMIT USER FEES.

All sewer users located outside the corporate limits, except other governmental units with whom the town may enter into formal written contract, shall be required to pay, in addition to the basic user fee, additional fees calculated to defray the proportionate share of the outside corporate user's responsibility for the administrative and support expenses, debt service costs, depreciation recovery costs, and/or other service costs not otherwise directly paid for by the Water and Sewer Fund and as now assumed and paid by inside corporate users through the ad valorem tax levy and/or other charges.

(Ord. passed 8-1-94)

WASTEWATER DISCHARGE PERMITS

§ 52.035 MANDATORY PERMITS.

Each significant industrial user, if not connected to the town sewer, must apply for a wastewater discharge permit before connecting to or discharging into a town sewer. Existing industrial users who

are determined to be a significant industrial user by the POTW Director, shall obtain a wastewater discharge permit within 180 days of notification of the Director's decision. Industrial users who do not fit the significant industrial user criteria may, at the discretion of the POTW Director, be required to obtain a wastewater contribution permit for nonsignificant industrial users.

(Ord. passed 8-1-94) Penalty, see § 52.999

§ 52.036 PERMIT APPLICATION.

Users seeking a wastewater discharge permit shall complete and file with the town an application in the form prescribed by the town. Any application fees will be established by the Town Council and included in the Schedule of Charges and Fees.

(A) The applicant may be required to submit, in units and terms appropriate for evaluation, the following information:

(1) Name, address, and SIC code(s) of applicant;

(2) Volume of wastewater to be discharged;

(3) Analytical data on wastewater constituents and characteristics including, but not limited to those mentioned in §§ 52.060 through 52.075 as determined by a laboratory approved by the town. Included shall be analytical data on any priority pollutants (section 307(a) of the Act) present or suspected present in the discharge. 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 136, as amended;

(4) Time and duration of discharge;

(5) Average daily and 30 minute peak wastewater flow rates, including daily, monthly, and seasonal variations if any;

(6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by size, location, and elevation;

(7) Description of activities, facilities, and plant processes on the premises, including all materials, processes, and types of materials which are or could be accidentally or intentionally discharged;

(8) The type and amount of raw materials processed and each product produced by type, amount, process, and rate of production;

(9) Number and type of employees and hours of plant operation;

(10) Any other information as may be deemed by the town to be necessary to evaluate the permit application. Every industrial user subject to a categorical standard must submit a Baseline Monitoring Report (BMR) as specifically set out in 40 CFR 403.12(b) or 15A NCAC 2H .0908(a);

(11) Where known, the nature and concentration of any pollutants in the discharge which are limited by town, state, or federal pretreatment standards and a statement regarding whether or not the pretreatment standards are being met on a consistent basis. If pretreatment standards are not being met, a schedule of operation, maintenance, or pretreatment improvements, provided by the user, necessary to meet pretreatment standards on a consistent basis;

(B) (1) As outlined in 40 CFR 403.12(b), (d), or (1), all discharge permit applications and user reports must be signed by the authorized representative of the user and contain the following statement:

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

(2) The town will evaluate the data furnished by the user and may require additional information. After evaluation and approval of all the data required, the town may issue a wastewater discharge permit subject to terms and conditions provided herein.

(Ord. passed 8-1-94)

§ 52.037 APPLICATION REVIEW AND EVALUATION.

(A) The POTW Director is authorized to accept permit applications. Within 30 days of receipt, the Director shall acknowledge the application and begin the review process. If the application is incomplete, the Director will return the application with a statement of the additional information required.

(B) Upon review of the application and a subsequent on-site inspection, a tentative decision to issue or deny the permit will be made. If the decision is made to issue a user permit, a draft will be prepared. The draft permit will contain the pertinent information submitted with the application and the conditions imposed by the town on the discharger.

(C) The draft permit must be reviewed by the state and the user within 30 days. a synopsis of the application shall be prepared for submission to the applicant and the approval authority along with the draft permit.

(D) If the draft permit is not accepted by the user, the user may initiate the hearing process through the town. Final action on the permit application should not extend beyond 90 days unless the hearing process extends that time period.

(Ord. passed 8-1-94)

§ 52.038 HEARINGS.

The permittee has the right to a hearing to address a permit denial, a permit issued with objectionable conditions, and a penalty assessment. The steps to be followed are:

(A) *Initial adjudicatory hearing.* An applicant whose permit is denied or is granted subject to conditions he or she deems unacceptable, a permittee/user assessed a civil penalty under § 52.999, or one issued an administrative order under §§ 52.099 through 52.104 shall have the right to an adjudicatory hearing before a hearing officer designated by the POTW Director upon making written demand, identifying the specific issues to be contested, to the POTW Director within 30 days following receipt of the significant industrial user permit, civil penalty assessment, or administrative order. Unless such written demand is made within the specified time, the action shall be final and binding. The hearing officer shall make a final decision on the contested permit, penalty, or order within 45 days of the receipt of the written demand for a hearing. The POTW Director shall transmit a copy of the hearing officer's decision by registered or certified mail.

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

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

(B) *Final appeal hearing.* Any decision of a hearing officer made as a result of an adjudicatory hearing held under division (A) of this section may be appealed to the Town Council upon filing a written demand within ten days of receipt of notice of the decision. Hearings shall be conducted in accordance with the Town Council's normal procedures for public hearings. Failure to make written demand for a hearing within the specified time shall bar further appeal. The Council shall make a final decision on the appeal within 90 days of the date the appeal was filed and shall transmit a written copy of its decision by registered or certified mail.

(C) *Official record.* When a final decision is issued under division (B) of this section, the Town Council shall prepare an official record of the case that includes:

- (1) All notices, motions, and other like pleadings;
- (2) A copy of all documentary evidence introduced;

(3) A certified transcript of all testimony taken, if transcribed. If testimony is not transcribed, then a narrative summary of any testimony taken; and

(4) A copy of the final decision of the Town Council.

(D) *Judicial review.* Any person against whom a final order or decision of the Town Council is entered pursuant to the hearing conducted under division (B) of this section may seek judicial review of the order or decision by filing a written petition within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, with the Superior Court of Alamance along with a copy to the town. Within 30 days after receipt of the copy of the petition of judicial review, the Town Council shall transmit to the reviewing court the original or a certified copy of the official record. (Ord. passed 8-1-94)

§ 52.039 PERMIT MODIFICATIONS.

Permit modifications that require changes in the conditions of the permit or character of the permitted discharge will fall under the same requirements as an application for a new discharge. Exceptions include:

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

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

(C) Modification of compliance schedules in permits for new sources where the new source will not begin to operate until the control facilities are operational. (Ord. passed 8-1-94)

§ 52.040 PERMIT CONDITIONS.

Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other ordinances, regulations, charges, and fees established by the town, state, or federal authority. The conditions of wastewater discharge permits shall be uniformly enforced by the town in accordance with this chapter and applicable state and federal regulations.

(A) Permits shall contain the following:

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

(2) A statement of nontransferability;

(3) Discharge limitations, including the average and maximum wastewater constituents and characteristics based on categorical standards, local limits, or both;

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

(5) Requirements for submission of compliance reports, technical reports, or discharge reports.

(6) Requirements for maintaining plant records relating to wastewater discharge as specified by the town and affording town access thereto. Records must be retained for a minimum of five years or longer in the case of unresolved litigation or request of the approval authority;

(7) Notification requirements for slug loads or accidental discharges;

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

(B) Permits may contain the following:

(1) The unit charge or schedule of charges and fees for the wastewater to be discharged to a community sewer;

(2) Limits on rate and time of discharge or requirements for flow regulations and equalization;

(3) Requirements for installation of inspection and sampling facilities;

(4) Pretreatment requirements;

(5) Requirements to develop a schedule of compliance, including interim dates and requirements, for the installation of technology required to meet a pretreatment standard, as indicated in 40 CFR 403.8(f)(1)(iv) and section .0905 of the DEHNR regulations.

(6) Mean and maximum mass emission rates or other appropriate limits when incompatible pollutants (as defined by § 52.002) are proposed or present in the user's wastewater discharge.

(7) Other conditions as deemed appropriate by the town to insure compliance with this chapter.
(Ord. passed 8-1-94)

§ 52.041 DURATION OF PERMITS.

Wastewater discharge permits shall be issued for a specified time period not to exceed five years. A permit may be issued for a period of less than five years or may be stated to expire on a specific date. The terms and conditions of the permit may be subject to modification by the town during the life of the permit as limitations or requirements are modified. The user shall be informed of any proposed changes in his or her permit not less than 60 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. The user shall apply for permit renewal a minimum of 180 days prior to the expiration of the user's existing permit.

(Ord. passed 8-1-94)

§ 52.042 PRIOR NOTICE OF CHANGE OF PERMITTED CONDITION.

Any substantial change in discharge or a new discharge shall require notification to the POTW and approval by the POTW for that change or new discharge prior to its initiation. The town retains authority to deny, approve, or conditionally approve a new or increased discharge. Such review and determination by the town shall be performed in accordance with permitting procedures outlined in this chapter.
(Ord. passed 8-1-94)

§ 52.043 TRANSFER OF PERMIT.

Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned, transferred, or sold to a new owner, new user, different premises, or a new or changed operation.
(Ord. passed 8-1-94) Penalty, see § 52.999

§ 52.044 REVOCATION OF PERMIT.

Any user who violates the following conditions of this section or applicable state and federal regulations is subject to having his or her permit revoked in accordance with the procedures of §§ 52.099 through 52.104 of this chapter:

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

(B) Failure of the user to report significant changes in operations or wastewater constituents and characteristics;

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

(D) Violation of conditions of the permit.
(Ord. passed 8-1-94)

REGULATIONS**§ 52.060 DISCHARGE PROHIBITIONS.**

(A) *General discharge prohibitions.* No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will cause interference with the operation or

performance of the POTW or cause pass through. These general prohibitions apply to all such users of a POTW whether or not the user is a significant industrial user or subject to any national, state, or local pretreatment standards or requirements.

(B) *Specific discharge prohibitions.* A user may not contribute the following substances to any POTW:

(1) Any liquids, solids, or gases which by reason of their nature or quantity are or may be sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Included in this prohibition are wastestreams with a closed cup flashpoint of less than 140°F (60°C). At no time shall two successive readings on an explosion hazard meter at the point of discharge into the system (or at any point in the system) be more than 5 %, nor any single reading over 10% of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.

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

(3) Any wastewater having a pH less than 6.0 or greater than 9.0 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(4) Any wastewater containing toxic pollutants (including gases, vapors, or fumes) in sufficient quantity (flow or concentration), either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the Act.

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

(6) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under section 405 of the Act,

the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

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

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

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

(10) Any pollutants, including oxygen demanding pollutants (BOD and the like) released at a flow rate and/or pollutant concentration which will cause pass through or interference to the POTW is prohibited. The federal regulations provide for an affirmative defense (40 CFR 403.5(a)(2)) for the user. The user must demonstrate that it did not know that the discharge alone or combined with other wastes would cause pass through or interference. Furthermore there must have been a local limit set for the pollutant causing pass through or interference and that limit must have been met. If no local limit has been established, the user must demonstrate that its discharge did not change significantly from its prior discharge activity when the POTW was in compliance with its NPDES requirements.

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

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

(13) Any trucked or hauled wastes, except at discharge points and times designated by the POTW Director, consistent with 40 CFR 403.5(b)(8). Such wastes are subject to all restrictions of this chapter and pertinent POTW rules.

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

(15) Any industrial waste containing floatable fats, waxes, grease, or oils, or which become floatable at the introduction to the wastewater plant. The town may require grease, oil, or sand interceptors (traps) and proper maintenance of the same.

(16) Nonbiodegradable cutting oils (soluble oils) which form a persistent water emulsion and nonbiodegradable complex carbon compounds.

(17) Any sludges, screenings, or other residue from the pretreatment of industrial wastes.

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

(19) Any material identified as hazardous waste according to 40 CFR 261 unless specifically authorized by the POTW Director.

(20) Recognizable parts of the human or animal anatomy.

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

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

(D) When the town determines that a user(s) is contributing to the POTW any of the above enumerated substances in such amounts as to contribute to or cause interference with the operation of the POTW or pass through, the town shall:

(1) Advise the user(s) of the impact of the contribution on the POTW in accordance with §§ 52.099 through 52.104; and

(2) Take appropriate action to protect the POTW and develop effluent limitations for such user to correct the interference or pass through with the POTW.
(Ord. passed 8-1-94) Penalty, see § 52.999

§ 52.061 PRETREATMENT.

Users shall provide the necessary level of treatment to make wastewater acceptable under the limitations established herein before discharging into the town sewer. Any facilities required to pretreat wastewater to a level acceptable to the town shall be provided and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the town for review and shall be approved by the town before construction of the facility. The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent complying with the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the town prior to its initiation.

(Ord. passed 8-1-94) Penalty, see § 52.999

§ 52.062 FEDERAL CATEGORICAL PRETREATMENT STANDARDS.

(A) (1) Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, subchapter N, 405-471 and incorporated herein. The federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter.

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

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

(Ord. passed 8-1-94) Penalty, see § 52.999

§ 52.063 OUTSIDE ENFORCEMENT OF PRETREATMENT PROVISIONS.

(A) It shall be the responsibility of all other governmental, public, or private owners of sanitary sewer systems which ultimately discharge into the town's POTW and have approved pretreatment programs to enforce all applicable portions of the Federal Industrial Pretreatment Regulations, the North Carolina General Statutes, and town ordinances for industries having indirect discharges into their sanitary sewer systems. All discharge permits as required by this chapter shall be issued by such sanitary sewer system owners having an approved pretreatment program to industries in accordance with the requirements of this chapter. Monitoring requirements, including the installation of monitoring stations and equipment, shall be enforced by these system owners as provided for in this chapter, as required under the Federal Industrial Pretreatment Regulations, or as directed in a state approved Industrial Pretreatment Program.

(B) All monitoring reports, baseline reports, compliance reports, and the like as required under the State and Federal Industrial Pretreatment Regulations shall be completed by the sanitary sewer system owner having an approved pretreatment program for those industries requiring such. Properly completed and executed reports shall be submitted to the town in duplicate. The schedule for submission of these

reports shall be determined by the town. The town will be responsible for submitting these forms to the state as required.

(C) Enforcement actions of the provisions of this chapter and state and federal pretreatment regulations shall be the responsibility of the sanitary sewer system owners who have an approved pretreatment program. In the event of nonenforcement by the owners, the town may deem the owner in violation of this chapter and may take the appropriate legal actions to ensure enforcement of the provisions of this chapter.

(Ord. passed 8-1-94)

§ 52.064 INDUSTRIAL WASTE SURVEY AND SPECIFIC POLLUTANT LIMITATIONS.

(A) An industrial waste survey is required prior to a user discharging wastewater containing in excess of the following concentrations, as measured as a daily average discharge:

0.003 mg/l	Arsenic
0.003 mg/l	Cadmium
0.061 mg/l	Copper
0.017 mg/l	Cyanide
0.049 mg/l	Lead
0.0003 mg/l	Mercury
0.021 mg/l	Nickel
0.005 mg/l	Silver
0.05 mg/l	Total Chromium
0.175 mg/l	Zinc
0.100 mg/l	Total identifiable chlorinated hydrocarbons
1.00 mg/l	Phenolic compounds which cannot be removed by the town's wastewater treatment process
100 mg/l	Oil or grease (mineral, petroleum, animal, or vegetable origin)
150 mg/l	Total Suspended Solids (subject to surcharge)
300 mg/l	Biochemical Oxygen Demand (subject to surcharge)

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

(C) When necessary, certain specific compounds or formulations may be banned from discharge into the town wastewater system. At present one type of compound is banned. It is tri-butyl tin oxides or hydrides - (biocides).

(Ord. passed 8-1-94) Penalty, see § 52.999

§ 52.065 STATE REQUIREMENTS.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this chapter.

(Ord. passed 8-1-94)

§ 52.066 TOWN'S RIGHT OF REVISION.

The town reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in § 52.001 or the general and specific prohibitions in § 52.0601 of this chapter as allowed by 40 CFR 403.4.

(Ord. passed 8-1-94)

§ 52.067 EXCESSIVE DISCHARGE/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 Federal Categorical Pretreatment Standards, unless expressly authorized by an applicable pretreatment standard or in any other pollutant-specific limitation developed by the town or state.

(Ord. passed 8-1-94) Penalty, see § 52.999

§ 52.068 BYPASS OF TREATMENT.

Bypass of treatment facilities is prohibited except under the conditions outlined in 40 CFR 403.17. Prior approval of the bypass should be obtained from the town.

(Ord. passed 8-1-94) Penalty, see § 52.999

§ 52.069 UPSET CONDITIONS.

The user shall control production or 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 (40 CFR 403.16).

(Ord. passed 8-1-94) Penalty, see § 52.999

§ 52.070 ACCIDENTAL DISCHARGES.

(A) Each user shall provide protection from accidental and/or slug load discharges of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental and/or slug load

discharges of prohibited materials shall be provided and maintained at the owner or user's own cost and expense.

(B) Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the town for review and shall be approved by the town before construction of the facility. Operating procedures shall include, but are not limited to, inspection and maintenance of storage areas, materials handling and transfer, loading and unloading operations, control of site runoff, and employee training. The plan shall describe discharge practices (including nonroutine batch discharges), describe stored chemicals, and shall contain procedures to notify the POTW immediately of accidental and/or slug load discharges and to prevent adverse impacts from any accidental spill. All existing users shall complete such a plan before the permit renewal process is complete. No user who commences contribution to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the town. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility, as necessary, to meet the requirements of this chapter.

(C) In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of the discharge, type of waste, concentration and volume, and corrective actions taken.

(Ord. passed 8-1-94) Penalty, see § 52.999

§ 52.071 WRITTEN NOTICE.

Within five days following an accidental discharge, the user shall submit to the town a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(Ord. passed 8-1-94)

§ 52.072 NOTICE TO EMPLOYEES.

A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of an accidental or slug load discharge. Employers shall insure that all appropriate employees are advised of the emergency notification procedure.

(Ord. passed 8-1-94)

§ 52.073 USE OF SANITARY SEWER SYSTEM.

(A) All plumbing shall be connected to the town sanitary sewer system where available.

(B) New residences, commercial establishments, and industrial users within the service area are required to connect to the sanitary sewer prior to the final plumbing inspection and issuance of the certificate of occupancy. Such connections are governed by the North Carolina State Building Code and the North Carolina State Plumbing Code. Private sewage disposal systems are prohibited.

(C) Existing residences, commercial establishments, and industrial users within the service area that operate with existing septic tanks or other disposal systems shall be governed by the rules and regulations of the state (G.S. Ch. 130A, Art. 11) and the Alamance County Health Department. If inspection of such a facility determines that it is not in compliance with existing rules and regulations, the town, upon condemnation by the Health Department, shall require connection to the sanitary sewer.

(D) The discharge of any septic tank effluent, cesspool overflow, or trucked waste into any open drain, ditch, stream, or well penetrating water-bearing formation is prohibited.

(E) If there are areas under the town's jurisdiction that are not serviced by the publicly-owned sanitary sewer, the town and the Health Department may issue a permit to construct a sewage disposal system under the existing town code, the rules and regulations of the Health Department, and the state. Approval or rejection of such facilities would be in accordance with a standard set of plans and specifications.

(Ord. passed 8-1-94) Penalty, see § 52.999

§ 52.074 STORM SEWERS.

The discharge of sanitary wastewater to the storm sewer system is prohibited. The discharge of uncontaminated cooling water and uncontaminated condensate into the storm sewer system is allowed. (Ord. passed 8-1-94) Penalty, see § 52.999

§ 52.075 SAMPLING AND ANALYTICAL REQUIREMENTS.

Sampling and analyses must be preformed in accordance with procedures approved by EPA.

(A) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be collected using grab collection techniques. Samples for other parameters must be composited either by flow proportional or time proportional composite collection methods, depending on the feasibility of installing flow proportional equipment. Under special circumstances, the Director of Public Works and Utilities may authorize collection of a minimum of four grab samples representative of the discharge as a form of composite sample.

(B) All pollutant analyses submitted as part of the pretreatment application or compliance requirements shall be performed in accordance with the techniques prescribed in 40 CFR 136, unless otherwise specified in an applicable categorical pretreatment standard.

(Ord. passed 8-1-94) Penalty, see § 52.999

§ 52.076 MONITORING FACILITIES.

(A) Users who propose to discharge, or who in the judgment of the town could discharge now or in the future, wastewater with constituents and characteristics different from that produced by a domestic premises will be required to install a monitoring facility.

(B) When more than one user can discharge into a common building sewer, the town may require installation of a separate monitoring facility for each user. Also when, in the judgment of the town, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, the town may require that separate monitoring facilities be installed for each separate discharge.

(C) Monitoring facilities that are required to be installed shall be constructed, operated, and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling, and flow measurement of wastewaters produced by a user. If sampling or metering equipment is also required by the town, it shall be provided, installed, and operated at the user's expense. The monitoring facility will be required to be located on the user's premises.

(D) If the monitoring facility is inside the user's fence, there shall be accommodations to allow safe and immediate access for town personnel, such as a gate secured with a town lock. There shall be ample room in or near such facility to allow accurate sampling and compositing of samples for analysis. The entire facility and the sampling and measuring equipment shall be maintained at all times in safe and proper operating condition by and at the expense of the user.

(E) The monitoring facilities shall be constructed in accordance with the town's requirements and all applicable local construction standards and specifications.

(F) When, in the judgment of the town, an existing user requires a monitoring facility, the user will be so notified in writing. Construction must be completed within 90 days following written notification unless a time extension is otherwise granted by the town.

(Ord. passed 8-1-94) Penalty, see § 52.999

§ 52.077 INSPECTION AND SAMPLING.

(A) Authority is hereby granted to the duly authorized town employees to enter upon all properties to make necessary inspections, tests, and measurements to insure compliance with all the regulations of this chapter. This includes the authority to examine and/or copy records required to be retained. The town may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the town or its representative ready access at all times to all parts of the premises for the purposes of inspection or sampling or in the performance of any of their duties. The town, the approval authority, and the EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring, or metering operations. Where a user has security measures in force which would require proper identification and

clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the town, the approval authority, and the EPA will be permitted to enter without delay for the purposes of performing their specific responsibilities.

(Ord. passed 8-1-94)

§ 52.078 PRETREATMENT OF WASTEWATER.

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

(B) *Additional pretreatment measures.*

(1) Whenever deemed necessary, the POTW Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocated 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 division.

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

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

(4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(Ord. passed 1-7-08)

ADMINISTRATION AND ENFORCEMENT**§ 52.090 RIGHT TO DISCHARGE.**

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the town or a duly authorized representative.

(Ord. passed 8-1-94) Penalty, see § 52.999

§ 52.091 DISCHARGE REPORTS.

The town may require that any person discharging or proposing to discharge wastewater into a town sewer file a periodic discharge report. The discharge report may include, but not be limited to, nature or process, volume, average and maximum daily rates of flow, concentration of pollutants in the discharge, mass emission rate, production quantities, hours of operation, number and classification of employee, or other information which relates to the generation of waste including wastewater discharge. Such reports may also include the chemical constituents and quantity of liquid or gaseous materials stored on site even though they are not normally discharged. In addition to discharge reports, the town may require information in the form of wastewater discharge permit applications and self-monitoring reports. (Ord. passed 8-1-94)

§ 52.092 SCHEDULE OF COMPLIANCE AND REPORTING REQUIREMENTS.

Industrial users may be found out of compliance with either town, state, or federal pretreatment regulations and be required to develop a Schedule of Compliance with specific progress milestone dates, compliance dates, and reporting requirements. Requirements to develop a Schedule of Compliance for the installation of technology required to meet a pretreatment standard are outlined in 40 CFR 403.8(f)(1)(iv) and section .0905 of the DEHNR regulations. Compliance progress reports for Schedule of Compliance milestone dates must conform to 40 CFR 403.12(c) and section .0908(a) of DEHNR regulations. Industrial users not yet permitted but required to submit compliance schedule progress reports under federal regulations must also meet the requirements of 40 CFR 403.12(c) and section .0908(a) of DEHNR regulations. Progress and compliance reports must be submitted within 14 days of

any date in the schedule and the final date of compliance. Enforcement of Schedule of Compliance requirements is included in this subchapter and the town's Pretreatment Enforcement Response Guide. (Ord. passed 8-1-94)

§ 52.093 BASELINE MONITORING REPORTS AND CATEGORICAL DEADLINES AND COMPLIANCE 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 categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the town a report containing the following:

- (1) Identifying information;
- (2) A list of all environmental permits held by or for the facility;
- (3) A description of operations including the nature, rate of production, and standard industrial classification(s) of the operations along with a diagram indicating the points of discharge to the POTW;
- (4) Flow measurements for average and maximum daily flows in gallons per day;
- (5) Measurements of pollutants including the categorical pretreatment standards for each regulated process, the sampling and analysis results identifying the nature, concentration, and/or mass of each regulated pollutant in the discharge, and any instantaneous daily maximum and long term average concentration data available, as required. The sample shall be representative of normal daily operations and analyzed in accordance with approved methods.
- (6) A statement, reviewed by the user's authorized representative 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) If additional pretreatment or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide the additional pretreatment or O&M shall be established. The completion date established in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The schedule must meet the requirements set forth in § 52.092 of this chapter.
- (8) All baseline monitoring reports must be signed and certified in accordance with § 52.036 of this chapter.

(B) 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 town a report containing the information listed in subsections (A)(1) through (8) of this

section. A new source shall report the method of pretreatment it intends to use to meet the applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(C) As required by 40 CFR 403.12(d) and section .0908(a) of the DEHNR regulations, any industrial user subject to a categorical standard must submit a report within 90 days after the final date for compliance (or following the commencement of discharge from a new source) which contains flow and pollutant measurements and a certification of whether pretreatment standards are being met, and if not, a description of needed additional operation, maintenance, or pretreatment. This report must also contain a reasonable measure of the user's long-term production rate if mass or concentration limits were established under 40 CFR 403.6(c) or an actual measure of production for all other users subject to categorical pretreatment standards expressed as allowable pollutant discharge per unit production. Compliance reports must be signed and certified in accordance with § 52.036(E) of this chapter.

(D) Any user subject to categorical pretreatment standards must submit a report, at least twice per year, indicating the nature and concentration of pollutants in its discharge which are limited by a categorical standard. The report must also include a record of measured or estimated average and maximum daily flows. Reports must be signed and certified in accordance with § 52.036(E) of this chapter.

(E) If sampling by the industrial user subject to a categorical standard indicates a violation, the user must notify the POTW within 24 hours after becoming aware of the violation. The user must also resample and submit results of this resampling within 30 days.

(Ord. passed 8-1-94)

§ 52.094 USER NOTIFICATION OF VIOLATIONS.

Industrial users must report immediately (within 24 hours) any instance of noncompliance after first knowledge of the violation. If the noncompliance is caused by a regulated parameter exceeding the permit limit, the user is responsible for resampling for that parameter and reporting the analytical results within 30 days.

(Ord. passed 8-1-94) Penalty, see § 52.999

§ 52.095 NOTIFICATION OF DISCHARGE OF HAZARDOUS WASTES.

Any industrial user must notify, in writing, the POTW, the state, and the EPA of any discharge which would be considered a hazardous waste under 40 CFR 261, if disposed of in a different manner. Information in the notification must conform to the requirements of 40 CFR 261. All notifications must take place no later than 180 days after the discharge commences.

(Ord. passed 8-1-94) Penalty, see § 52.999

§ 52.096 SEARCH WARRANTS.

If the POTW Director, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the town designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the POTW Director, approval authority, or EPA may seek issuance of a search warrant from a Judicial Official of the Court (Magistrate, District, or Superior) of Alamance County.
(Ord. passed 8-1-94)

§ 52.097 CONFIDENTIAL INFORMATION.

(A) All information and data on a user obtained from reports, questionnaires, permit applications, permits, monitoring programs, and from inspections shall be available to the public or any other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the town that the release of such information would divulge information, processes, or methods which would be detrimental to the user's competitive position.

(B) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) permit, nondischarge permit, and/or pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(C) Information accepted by the town as confidential shall not be transmitted to the general public by the town until and unless prior and adequate notification is given to the user. Such records shall be made available to officials of the approval authority and EPA upon request.

(Ord. passed 8-1-94)

§ 52.098 SPECIAL AGREEMENTS.

Special agreements and arrangements between the town and any persons or agencies may be established when in the opinion of the town unusual or extraordinary circumstances compel special terms and conditions. In no case will a special agreement allow a violation of federal or state law, including local limits.

(Ord. passed 8-1-94)

§ 52.099 NOTIFICATION OF VIOLATION.

(A) Whenever the town finds that any user has violated or is violating this chapter, a wastewater contribution permit, or any prohibition or limitation of requirements contained herein, the town may serve upon such person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the town by the user. Submission of this plan does not relieve the discharger of liability for any violation occurring before or after receipt of the notice of violation.

(B) The town must annually publish a list of industrial users who were in significant noncompliance with applicable pretreatment regulations during the previous 12 months. This notification will appear in the largest daily newspaper with general circulation in the municipality. This provision is in compliance with 40 CFR 403.8(f)(2)(vii) and section .0905 of the DEHNR regulations.

(Ord. passed 8-1-94)

§ 52.100 CONSENT ORDERS.

The POTW Director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to § 52.102.

(Ord. passed 8-1-94)

§ 52.101 HARMFUL CONTRIBUTIONS.

(A) The town may suspend the wastewater treatment service and/or a wastewater contribution permit when such suspension is necessary, in the opinion of the town, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW, or causes the town to violate any condition of its NPDES permit.

(B) Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the town shall take such steps as deemed necessary, including immediate severance of the water and/or sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The town shall reinstate the wastewater contribution permit and/or the wastewater treatment service or water service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the town within 15 days of the date of occurrence.

(Ord. passed 8-1-94)

§ 52.102 ADMINISTRATIVE ORDERS.

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

(A) Immediately comply with all requirements;

(B) Comply in accordance with a compliance time schedule set forth in the order;

(C) Take appropriate remedial or preventive action in the event of a continuing or threatened violation;

(D) Disconnect unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated within a specified time period.

(Ord. passed 8-1-94)

§ 52.103 SHOW CAUSE HEARING.

(A) (1) The town may order any user who causes or allows an unauthorized discharge, has violated this chapter, or is in noncompliance with a wastewater discharge permit to show cause before the Town Council why a proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the Town Council regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the Town Council why the proposed enforcement action should not be taken. The notice of the hearing shall be sensed personally or by registered or certified mail (return receipt requested) at least ten days before the hearing service may be made on any agent or officer of a corporation.

(2) A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under § 52.999, nor is any action or inaction taken by the POTW Director under this section subject to an administrative appeal under § 52.038.

(B) The Town Council may itself conduct the hearing and take the evidence or may designate any of its members or any officer or employee of the (assigned department) to:

(1) Issue in the name of the Town Council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(2) Take the evidence;

(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Town Council for action thereon.

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

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

(E) Any person against whom a final order or decision of the Town Council is entered, pursuant to the hearing process, may seek judicial review of the order or decision by filing a written petition within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, with the Superior Court of Alamance County along with a copy to the town. Within 30 days of receipt of a copy of the petition of judicial review, the Town Council shall transmit to the reviewing court the original or a certified copy of the official record.

(Ord. passed 8-1-94)

§ 52.104 LEGAL ACTION.

If any person discharges sewage, industrial wastes, or other wastes into the town's wastewater disposal system contrary to the provisions of this chapter, federal or state pretreatment requirements, or any order of the town, the Town Attorney may commence an action for appropriate legal and/or equitable relief in a court of appropriate jurisdiction. This includes the right to seek a temporary restraining order or preliminary or permanent injunction to restrain or compel the activity in question. This authority also extends to nondischarge violations that result in noncompliance.

(Ord. passed 8-1-94)

§ 52.999 PENALTY.

(A) *Civil penalties.*

(1) Any user who is found to have violated an order of the Town Council or who failed to comply with any provision of this chapter and/or the orders, rules, regulations, and permits issued hereunder may be assessed a civil penalty of not less than \$50, nor more than \$10,000 pursuant to G.S. § 143-215.6A(b1). Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the town may recover reasonable attorneys' fees, court costs, court reporters' fees, and other expenses of litigation by appropriate suit against the person found to have violated this chapter or the orders, rules, regulations, and permits issued hereunder.

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

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

(b) The duration and gravity of the violation;

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

(d) The cost of rectifying the damage;

(e) The amount of money saved by the noncompliance;

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

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

(h) The costs of enforcement to the town.

(3) Appeals of civil penalties assessed in accordance with this section shall be as provided in § 52.038.

(B) *Falsifying information.* The District Attorney for Judicial District 15A may, at the request of the town, prosecute 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 chapter or the wastewater discharge permit or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter.

(C) *Criminal violations.*

(1) The District Attorney for Judicial District 15A may, at the request of the town, prosecute any person who negligently violates any term, condition, or requirement of this chapter and any person who negligently fails to apply for or to secure a permit required by G.S. § 143-215.1.

(2) The District Attorney for Judicial District 15A may, at the request of the town, prosecute any person who knowingly and willfully violates any term, condition, or requirement of this chapter and any person who knowingly and willfully fails to apply for or to secure a permit required by G.S. § 143-215.1.

(3) The District Attorney for Judicial District 15A may, at the request of the town, prosecute any person who knowingly violates any term, condition, or requirement of this chapter and any person who knowingly fails to apply for or to secure a permit required by G.S. § 143-215.1 and knows at that time that he or she thereby places another person in imminent danger of death or serious bodily injury.

(D) *Remedies nonexclusive.* The remedies provided for in this chapter are not exclusive. The POTW Director may take any, all, or any combination of these actions against a noncompliant user.
(Ord. passed 8-1-94)

Statutory reference:

Enforcement procedures and criminal penalties, G.S. § 143-215.6B

CHAPTER 53: WATER SHORTAGE RESPONSE PLAN

Section

- 53.01 Purpose
- 53.02 Definitions
- 53.03 Authority for WSRP implementation
- 53.04 Notification of WSRP activation and conservation measures
- 53.05 Measuring severity
- 53.06 Triggers and responses
- 53.07 Violation; enforcement
- 53.08 Public review
- 53.09 Variance
- 53.10 Evaluation
- 53.11 Revision

§ 53.01 PURPOSE.

(A) It is the purpose and intent of this chapter to assure that available water resources are put to reasonable beneficial uses to avoid depletion of the town's water supply during a water shortage. This plan shall be liberally construed to effectuate such purpose and intent. This plan shall satisfy the requirements to develop and approve a water shortage response plan as required by the NC Division of Water Resources and compliance with 15A NCAC 02E .0607 with the authority of G.S. §§ 143-354(a)(1); 143-355(1); S.L. 2002-167; effective March 19, 2007.

(B) The Town of Haw River purchases water from the City of Burlington which owns three water supply reservoirs with over 10,700 million gallons of water storage. The combined 20-year safe yield of our lakes is approximately 53 million gallons per day (MGD) and the 50-year safe yield is approximately 50 MGD.

(Ord. passed 2-8-10)

§ 53.02 DEFINITIONS.

For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning. The word **SHALL** is always mandatory and never directory.

CUSTOMER. Refers to any person who is an owner, occupant, or user of real property to which water is supplied by the town. The term shall also refer to any person who uses water supplied by the town, or to any person who is billed for the supply of water from the town, or to any person who is responsible for or otherwise has the right or permission to utilize the supply of water provided by the town.

PERSON. Any natural person, any group of persons, any firm, partnership, association, corporation, company, or any other organization or entity.

RAW WATER. Water impounded in a Burlington, city-owned reservoir or conveyed through pumps and pipes to a city-owned water treatment facility for further treatment to make potable water.

TOWN. The Town of Haw River, a North Carolina Municipal corporation.

WATER. All water, except wastewater, supplied by the town to any customer.

WATER SHORTAGE. Shall be deemed to exist when the ordinary demands and requirements of water customers served by the town cannot be satisfied without depleting the water supply to or below a critical level, the level at which the continued availability of water for human consumption, sanitation and fire protection is jeopardized.

WELL WATER or PRIVATE WATER. Water from sources other than the town water system. This can include groundwater from private wells, captured rainwater, or recycled water.
(Ord. passed 2-8-10)

§ 53.03 AUTHORITY FOR WSRP IMPLEMENTATION.

The water shortage response plan establishes the authority of the Town of Haw River to declare a water shortage emergency and the authority of the highest town official (Mayor, Mayor-Pro-tem, Manager, etc.) available as able to declare a water shortage emergency.
(Ord. passed 2-8-10)

§ 53.04 NOTIFICATION OF WSRP ACTIVATION AND CONSERVATION MEASURES.

(A) Declaration of a water shortage emergency will be announced based on the time-sensitive nature of the problem. Drought related shortages will be announced in open session of the Town Council, in local newspapers, and on the official town website. The town will also use bill stuffers and postings within the Municipal Building to inform the public of the severity of the shortage and the required measures.

(B) Shortages that develop more quickly (equipment failures, piping failures, process failures, contamination) may be announced using radio, website, and television media. The Public Works Director will coordinate with the Mayor, Manager, or other officials to make sure that these announcements are made in a timely manner. Measures enacted will be based on the severity of the event.

(Ord. passed 2-8-10)

§ 53.05 MEASURING SEVERITY.

In response to the various types of water shortages, the stages spelled out below present the types of restrictions commensurate to the degree of severity. These stages are considered the minimum response actions and will be implemented as the trigger conditions occur. The Town Council may choose to enact more stringent measures not enumerated in this chapter.

(Ord. passed 2-8-10)

§ 53.06 TRIGGERS AND RESPONSES.

(A) Response to water shortage.

(1) It shall be the duty of the Director of Public Works to report to the Town Manager conditions adversely affecting the town water supply. The Manager shall review all relevant and available information, and if deemed necessary, shall recommend that the Town Council declare water conservation measures contained herein be in full force and effect as necessary. Conditions to be considered include abnormally dry weather conditions, lake water levels below normal for the season, forecasts for persistent drought, failure of treatment processes, piping or equipment, excessive water demand compared to treatment or storage capacity, contamination of supplies, declarations by the Governor of North Carolina, or a combination of these factors. If there is a time sensitive emergency (system failure) the highest-ranking official available shall declare a water emergency and require appropriate water conservation measures.

(2) The Town of Haw River currently purchases water from the City of Burlington and will rely on the City of Burlington to determine when conservation measures are needed. The City of Burlington will rely on a study titled *Reservoir Analysis; Lakes Mackintosh and Cammack* performed by ARCADIS Engineering (March 2008) which will be used to determine the relationship between reservoir water level and remaining water supply storage.

(B) *Use of raw water.* It shall be unlawful for any person to remove water from city-owned reservoirs for any reason. The City of Burlington shall have sole access to the water for purposes of treatment or other official city needs.

(C) *Water conservation rates.* The Town of Haw River, if needed, will institute water conservation rates in response to any adjustments by the City of Burlington. The City of Burlington will use the following process to make those adjustments: in the event of a prolonged drought with worsening consequences, it shall be at the discretion of the City Manager to propose an adjustment to the water rates to help promote water conservation. The water conservation rate can be used to address residential, commercial and/or industrial water consumption by increasing the cost per unit volume according to a published rate schedule. The City Manager shall recommend as necessary the adoption of water conservation rates by the City Council. The town's response to water shortages shall follow the restrictions related to the following stages of severity. During a water shortage event, treated water pumped to the distribution system will be monitored to assess the effectiveness of the conservation measures. Because of daily variability in water use, 30-day trend charts will be used as an assessment tool.

(1) *Continuing voluntary conservation practices ongoing.* Customers shall be encouraged to observe water conservation measures to reduce the wasting of water as follows:

- (a) Check plumbing and toilets for leaks annually, and if necessary, repair.
- (b) Repair leaking faucets whenever they develop.
- (c) Store drinking water in the refrigerator to avoid trying to run it cool at the tap.
- (d) Use shower for bathing or reduce the depth of water used for tub baths. Limit showers to four minutes where possible.
- (e) Refrain from running faucets while shaving or rinsing dishes or brushing teeth.
- (f) Install water flow restrictive devices in shower heads.
- (g) Install water-saving devices such as plastic bottles or commercial units in toilet tanks.
- (h) Wash full loads in clothes washers and dishwashers.
- (i) Review water uses and where feasible install recycle systems, particularly commercial and industrial customers.

(2) *Stage I - Voluntary Conservation, water alert.*

(a) Customers shall be encouraged to observe the recommendations for ongoing conservation practices and to increase the level of the conservation effort as follows:

- 1. Limit the use of clothes washers and dishwashers, and when used, to operate fully loaded.

2. Reduce the flushing of toilets to the minimum whenever practical.
3. Limit lawn watering to only when grass shows signs of withering and apply water as slowly as possible to achieve deep penetration.
4. Limit shrubbery watering to the minimum reusing household water when possible.
5. Limit car washing to the minimum. Use a hose with a nozzle to control water flow and minimize waste.
6. Limit wash downs of outside areas such as sidewalks, patios, driveways, or other similar purposes.
7. Limit hours of operation of water-cooled air-conditioners if possible.
8. Use disposable dishes and utensils, both for residential and commercial purposes, where feasible.

(b) The Town of Haw River will use the following basis to implement Stage I - Voluntary Conservation measures in keeping in concert with our water service provider, City of Burlington. Stage I - Voluntary Conservation measures will be implemented based on the level of water in the city reservoirs (75% capacity remaining), abnormally dry conditions, season of the year, long range weather forecast calling for persistent drought, failure of treatment processes, piping or equipment, excessive water demand compared to treatment or storage capacity, contamination of supplies, declarations by the Governor of North Carolina, or a combination of these factors.

(3) Stage II - Moderate Mandatory Conservation, established drought.

(a) Customers shall be encouraged to observe the recommendations of the continuing voluntary conservation and Stage I - Voluntary Conservation, and the level of the conservation effort shall be increased to require the following mandatory measures. No person shall:

1. Water lawns, grass, trees, shrubbery, flowers, golf greens or vegetable gardens except between 4:00 p.m. - 9:00 p.m. on Wednesday and 7:00 a.m. -12:00 noon on Saturday. The use of well water or private water is the only exception to this rule.
2. Introduce water into wading pools or swimming pools except to the extent necessary to replenish losses due to evaporation or spillage, and maintain operation of chemical feed equipment.
3. Use water to wash down outside areas such as sidewalks, patios, driveways, or for other similar purposes.

4. Introduce water into any decorative fountain, pool or pond except where the water is recycled.
5. Serve water in a restaurant or similar establishment except upon request.
6. Use water for any unnecessary purpose or intentionally waste water.
7. Wash the exterior of a motor vehicle or boat (travel or camping trailers) except where 50% or more of the water is recycled, or where a well or private water system is used.
8. Golf courses and institutions owning athletic fields (including artificial surfaces) shall be required to reduce water usage by 50% with watering only permitted between the hours of 10:00 p.m. and 5:00 a.m.

(b) Provided, however, any customer may secure a written license from the Town Manager or his or her designee to use water contrary to the Stage II - Moderate Mandatory Conservation measures where it can be shown to the Manager's satisfaction that use of water pursuant to conditions prescribed by the Town Manager in the license will result in a 30% or greater saving of water. Any license issued pursuant to this provision:

1. Must be in the possession of the licensee whenever water is used contrary to the Stage II- Moderate Mandatory Conservation measures; and
2. Is subject to amendment or revocation by the Town Manager at any time for good cause. Businesses with a privilege license for the Town of Haw River that use water to maintain their businesses may continue to operate under Stage II.

(c) Stage II - Moderate Mandatory Conservation measures will be implemented based on the level of water in the City of Burlington reservoirs (60% capacity remaining), abnormally dry conditions, season of the year, long range weather forecast calling for persistent drought, failure of treatment processes, piping or equipment, excessive water demand compared to treatment or storage capacity, contamination of supplies, declarations by the Governor of North Carolina, or a combination of these factors.

(4) Stage III - Severe Mandatory Conservation, prolonged drought.

(a) Customers shall be encouraged to observe the recommendations of the continuing voluntary conservation and Stage I - Voluntary Conservation measures and required to continue observing the mandatory requirements in Stage II. The level of the conservation effort shall increase to require the following additional mandatory measures.

1. No person shall:

a. Water lawns, grass, trees, shrubbery, flowers, golf greens or vegetable gardens except by hand-held hose (with shut-off nozzle), container, or drip irrigation system during the hours of 4:00 p.m. - 9:00 p.m. on Wednesday and 7:00 a.m. - 12:00 noon on Saturday. No automatic sprinkler system or un-attended watering shall be allowed. The use of well water or private water is the only exception to this rule.

b. Fill a wading pool or swimming pool or replenish any filled pool except to the minimum essential for operation of chemical feed equipment.

c. Make non-essential use of water for commercial or public use.

d. Operate water-cooled air conditioners or equipment that do not recycle cooling water, except when health and safety are adversely affected.

2. Request industry reduce consumption by 10%.

(b) Stage III - Severe Mandatory Conservation measures will be implemented based on the level of water in the City of Burlington reservoirs (45% capacity remaining), abnormally dry conditions, season of the year, long range weather forecast calling for persistent drought, failure of treatment processes, piping or equipment, excessive water demand compared to treatment or storage capacity, contamination of supplies, declarations by the Governor of North Carolina, or a combination of these factors.

(5) *Stage IV- Stringent Mandatory Conservation, severe water loss.*

(a) Customers shall be encouraged to observe the recommendations of the continuing voluntary conservation and Stage I - Voluntary Conservation measures and required to continue observing the mandatory requirements in Stages II and III. The level of the conservation effort shall increase to require the following additional mandatory measures:

1. No person shall:

a. Use water outside a structure except in an emergency involving a fire.

b. Operate evaporative air conditioning units, which recycle water except during the operating hours of the business.

c. Use water to fill or refill any swimming pool or wading pool.

d. Wash any motor vehicle, including commercial washing unless a private well is used.

2. Request industry reduce consumption an additional 25%. Industries must submit water conservation plans for city review.

3. In addition to the conservation measures enumerated above customers of eating establishments shall use plates, cups and eating utensils that are disposable.

(b) Stage IV - Stringent Mandatory Conservation measures will be implemented based on the level of water in the city reservoirs (30% capacity remaining), abnormally dry conditions, season of the year, long range weather forecast calling for persistent drought, failure of treatment processes, piping or equipment, excessive water demand compared to treatment or storage capacity, contamination of supplies, declarations by the Governor of North Carolina, or a combination of these factors.

(6) *Stage V- Rationing.*

(a) Customers shall be encouraged to observe the recommendations of the continuing voluntary conservation and Stage I - Voluntary Conservation measures and required to continue observing the mandatory requirements of Stages II, III, and IV. The level of the conservation effort shall increase to require the following mandatory measures:

1. Fire protection will be maintained, but where possible, tank trucks shall use raw water.

2. All industrial uses of water shall be prohibited, with the exception of water for domestic sanitation purposes.

3. All other uses of water will be limited to those necessary to meet minimum health and safety needs of the customers as determined by the Town Manager upon consultation with the Director of Public Works in light of conditions present.

(b) Failure to act in accordance therewith or use of water in any manner or attempt to evade or avoid water-rationing restrictions shall be unlawful.

(c) Stage V - Rationing measures will be implemented based on the level of water in the City of Burlington reservoirs (15% capacity remaining), abnormally dry conditions, season of the year, long range weather forecast calling for persistent drought, failure of treatment processes, piping or equipment, excessive water demand compared to treatment or storage capacity, contamination of supplies, declarations by the Governor of North Carolina, or a combination of these factors.

(D) *Scope and duration.* In the event that the Town Council shall declare one or more stages of water conservation to be in effect, said proclamation shall be applicable to all persons using water supplied by the town. Continuing voluntary conservation practices of the water conservation measures shall remain in full force and effect at all times or until such time as this article is amended or repealed.

Whenever Stages I, II, III, IV, and V of the water conservation measures are declared, they shall remain in full force and effect until such time as this chapter be amended or repealed, or until the Mayor (or his or her designee) by proclamation declares that the particular stage of the water shortage is over and the measures applicable to it are no longer in effect. Repeal of any stage of mandatory water restrictions shall become effective 30 days following the Mayor's proclamation and ratification of such action by the Town Council. Measures in response to shortages caused by equipment, piping, process failure, or contamination may be repealed immediately upon resolution.

(E) *Effect of invalidity.* Should any section or provision of this section be declared by the courts to be unconstitutional or invalid such decision shall not affect the validity of this section as a whole or any part other than the part so held unconstitutional or invalid.

(Ord. passed 2-8-10)

§ 53.07 VIOLATION; ENFORCEMENT.

(A) *Violation.* In the event that the Town Council shall declare one or more stages of water conservation as set forth herein, it shall be unlawful for any person to use or permit use of water supplied by the town in violation of any mandatory restrictions instituted. Records of violations shall be maintained and carried forward to be used for imposition of penalties and fines against violators in subsequent stages as long as mandatory restrictions remain in effect.

(B) *Enforcement.* It shall be the duty of the Director of Public Works to investigate violations of the mandatory restrictions and issue orders consistent with the purpose and intent of this chapter. All customers shall cease any violation of the mandatory restrictions upon the order of the Director of Public Works. Any customer who violates any provision of this chapter, or who shall violate or fail to comply with any order made hereunder shall be subject to penalty or a combination of the penalties as follows:

(1) *Assessment of fines or other fees for violation of mandatory restrictions.* The Town Manager shall recommend fines and fees for violations of mandatory restrictions and these fines and fees shall be approved by the Town Council. The schedule of fines and fees shall be announced.

(2) *Discontinuance of service.*

(a) The town may discontinue water service to any structure(s) or parcel(s) when the Town Manager upon recommendation of the Director of Public Works gives written notice of any violation of mandatory restrictions and intent to discontinue service. Water service shall be discontinued within 24 hours notice of any such violation unless the violation shall cease voluntarily.

(b) When service is discontinued pursuant to the provisions of this section, service shall not be re-instituted unless and until the Town Manager upon recommendation of the Director of Utilities determines that the risk to the town's water supply has been alleviated.

(c) The customers shall have a right of appeal to the Town Council, upon serving written notice of appeal on the Town Manager within five days after receiving notice of any violation and intent to discontinue service. The appellant will be notified by the Town Manager of the time and place for the hearing of the appeal. The Town Council shall act on the appeal as expeditiously as possible and shall notify the appellant in writing not later than two days after the final decision.

(3) *Equitable relief.* The provisions of this section may be enforced by an appropriate remedy, including a mandatory or prohibitory injunction, issuing from a court of competent jurisdiction.

(4) *Penalty not a substitute remedy.* The imposition of one or more penalties for any violation shall not excuse any violation or permit it to continue.

(C) *Penalties.* For the first offense, violators will be issued a warning. For the second violation of this chapter a civil penalty in the amount of \$100 shall be assessed. For the third violation of this chapter a civil penalty in the amount of \$250 shall be assessed. The fourth violation of this chapter shall result in interruption of water service to the offending customer. The town will issue written notification to the customer and occupant of intent to interrupt water service and 24 hours later will interrupt water service unless the violation has ceased. Each day shall constitute a separate violation. If water service has been interrupted due to repeat violation of this chapter, service will not be re-instated until the Public Works Director has determined that the risk to the town water supply has been alleviated or the Public Works Director is otherwise assured of compliance. Violation of this chapter may be punished by any of the means available to the town through the provisions of G.S. § 160A-175.

(Ord. passed 2-8-10)

§ 53.08 PUBLIC REVIEW.

Customers will have multiple opportunities to comment on the provisions of the water shortage response plan. First, a draft plan will be posted at Town Hall and on the Town of Haw River website. A public hearing will be scheduled with notice printed in all customer water bills and local newspaper to collect comments on the draft. All subsequent notices of revisions to the draft plan will be published at least 30 days prior to an adoption vote by the Haw River's Town Council.

(Ord. passed 2-8-10)

§ 53.09 VARIANCE.

(A) If the mandated further reduction in water usage cannot be obtained without imposing extraordinary hardship which threatens health and safety, the non-residential customer may apply to the municipality for a variance. For these purposes **EXTRAORDINARY HARDSHIP** means a permanent damage to property or an economic loss which is substantially more severe than the sacrifices borne by

other water users subject to this water rationing chapter. If the further reduction would cause an extraordinary hardship or threaten health or safety, a variance may be granted by the Town Manager and a revised water use reduction requirement for the particular customer may be established.

(B) Applications for water use variance requests are available from the Town of Haw River Town Hall. All applications must be submitted to the Town Hall for review by the Town Manager or his or her designee. A decision to approve or deny individual variance requests will be determined within two weeks of submittal after careful consideration of the following criteria: impact on water demand, expected duration, alternative source options, social and economic importance, purpose (i.e. necessary use of drinking water) and the prevention of structural damage.

(C) Any person aggrieved by a decision relating to such a variance may file a complaint with the Town Council in accordance with established procedures.
(Ord. passed 2-8-10)

§ 53.10 EVALUATION.

The effectiveness of the water shortage response plan will be determined by comparing the stated water conservation goals with observed water use reduction data. Other factors to be considered include frequency of plan activation, any problem periods without activation, total number of violation citations, desired reductions attained and evaluation of demand reductions compared to the previous year's seasonal data.

(Ord. passed 2-8-10)

§ 53.11 REVISION.

The water shortage response plan is considered part of the local water supply planning process and will be reviewed at a minimum of every five years during preparation of the local water supply plan. The water shortage response plan can be reviewed more frequently. Examples of when the plan might be reviewed are when there is an actual water shortage situation or when there are significant changes to the water supply, treatment, and distribution network. The Public Works Department will be responsible for reviewing the plan and communicating necessary modifications to the Town Manager.

(Ord. passed 2-8-10)

TITLE VII: TRAFFIC CODE

Chapter

- 70. GENERAL PROVISIONS**
- 71. TRAFFIC REGULATIONS**
- 72. PARKING**
- 73. TRAFFIC SCHEDULES**
- 74. PARKING SCHEDULES**

CHAPTER 70: GENERAL PROVISIONS

Section

General Provisions

- 70.01 Definitions
- 70.02 Obedience to police required
- 70.03 Application to public employees
- 70.04 Application to authorized emergency vehicles
- 70.05 Application to pushcarts, bicycles, and animal-driven vehicles
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Traffic-Control Devices

- 70.20 Obedience to traffic-control devices required
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- 70.35 Traffic citation procedure
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GENERAL PROVISIONS

§ 70.01 DEFINITIONS.

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

AMBULANCE. Vehicles equipped for transporting wounded, injured, or sick persons.

AUTHORIZED EMERGENCY VEHICLE. Vehicles of the Fire Department, police vehicles, and ambulances, as defined above, designated or authorized by the Chief of Police or Town Council.

BLOCK. The length of that portion of any street which is located between two street intersections.

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

COMPRESSION BRAKING. Engine braking, the act of using the energy-requiring compression stroke of the internal combustion engine to dissipate energy and slow down a vehicle.

CROSSWALK. That portion of a roadway which lies between the prolongation of the lateral sidewalk or boundary lines over an intersection; any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface.

DRIVER or OPERATOR. The ***OPERATOR*** of a vehicle. ***OPERATOR*** shall mean any person in actual physical control of a vehicle which is in motion or which has the engine running. The terms ***DRIVER*** and ***OPERATOR*** are synonymous.

HIGHWAY or STREET. 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*** or ***STREET*** or a combination of the two terms shall be used synonymously.

HOUSE TRAILER. Any trailer or semitrailer (as defined in this section) designed and equipped to provide living or sleeping facilities and drawn by a motor vehicle.

INTERSECTION. The area embraced within the prolongation of the lateral curblines or, if none, then the lateral edge of roadway lines of two or more highways which join one another at any angle, whether or not one such highway crosses the other. Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such a divided highway by an intersecting highway shall be regarded as a separate ***INTERSECTION***. In the event that such an intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate ***INTERSECTION***.

MOPED. Vehicles having two or three wheels and operable pedals and equipped with a motor which does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 20 miles per hour on a level surface.

MOTORCYCLES. Vehicles having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including motor scooters and motor-driven bicycles, but excluding tractors and utility vehicles equipped with an additional form of device designed to transport property; three-wheeled vehicles while being used by law-enforcement agencies; and mopeds as defined above.

MOTOR VEHICLE. Every vehicle which is self-propelled and every vehicle designed to run on the highways which is pulled by a self-propelled vehicle. This definition shall not include mopeds as defined above.

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

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

OFFICIAL TRAFFIC SIGNALS. Any device, whether manually, electrically, or automatically operated, by which traffic is alternately directed to stop and to proceed.

OPERATOR. See the definition for **DRIVER**.

OWNER. A person holding the legal title to a vehicle. However, in the event a vehicle is the subject of a chattel mortgage or an agreement for the conditional sale or lease thereof or other like agreement with the right of purchase upon performance of the conditions stated in the agreement and with the immediate right of possession vested in the mortgagor, conditional vendee, or lessee, the mortgagor, conditional vendee, or lessee shall be deemed the **OWNER** for the purpose of this traffic code. For the purposes of this traffic code, the lessee of a vehicle owned by the government of the United States shall be considered the **OWNER** of that vehicle.

PARK. The standing of a vehicle, whether occupied or not, other than temporarily for the purpose and while actually engaged in loading and unloading.

PEDESTRIAN. Any person afoot.

POLICE OFFICER. Every officer of the Police Department or any officer authorized to direct traffic or regulate traffic and to make arrests for violations of traffic regulations.

PRIVATE ROAD or DRIVEWAY. Every road or **DRIVEWAY** not open to the use of the public as a matter of right for purposes of vehicular traffic.

PUBLIC CONVEYANCE. Any vehicle which is engaged in the business of transporting persons for fare.

RAILROAD. A carrier of persons or property, other than streetcars, with cars operated on stationary rails.

RAILROAD TRAIN. A steam engine, electric, or other locomotor, with or without cars coupled thereto, operated upon rails, not including streetcars.

RESIDENCE DISTRICT. The territory contiguous to a highway not comprising a business district, where the frontage thereon for a distance of 300 feet or more is mainly occupied by dwellings or by dwellings and buildings in use for business purposes.

RIGHT-OF-WAY. The privilege of the immediate use of the roadway not inconsistent with traffic regulations and conditions.

ROAD TRACTORS. Vehicles designed and used for drawing other vehicles upon the highway and not so constructed as to carry any part of the load, either independently or as a part of the weight of the vehicle so drawn.

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

SAFETY ZONE. Traffic island or other space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.

SEMITRAILERS. Vehicles without motive power designed for carrying property or persons and for being drawn by a motor vehicle and so constructed that part of their weight or their load rests upon or is carried by the pulling vehicle.

SIDEWALK. That portion of a street between the curb lines or the lateral lines of a roadway and the adjacent property lines exclusively intended for the use of pedestrians.

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

STOP. When required, means complete cessation of movement.

STOP or STOPPING. When prohibited, means any **STOPPING** of a vehicle, except when conflict with other traffic is imminent or when otherwise directed by a police officer or traffic-control sign or signal.

STREET. See the definition for **HIGHWAY**.

TRAFFIC. Pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances, either singly or together, while using any street for purposes of travel.

TRAFFIC-CONTROL DEVICES. Authorized signs, lights, markers, or the like which are assumed to be permanently or temporarily placed, erected, or installed at certain places and which purport to give notice or direction or to convey a prohibition or warning. The presence of such devices, though not compulsory, is generally dictated by necessity or common sense with a view to furtherance of public safety.

TRAILERS. Vehicles without motive power designed for carrying property or persons wholly on their own structure and to be drawn by a motor vehicle, including "pole trailers" or a pair of wheels used primarily to balance a load rather than for purposes of transportation.

TRUCK TRACTORS. Vehicles designed and used primarily for drawing other vehicles and not so constructed as to carry any load independent of the vehicle so drawn.

VEHICLE. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon fixed rails or tracks; provided, that for the purposes of this traffic code bicycles shall be deemed vehicles, and every rider of a bicycle upon a highway shall be subject to the provisions of this traffic code applicable to the driver of a vehicle except those which by their nature can have no application.

(G.S. § 20-4.01) ('87 Code, § 70.01) (Ord. passed 1-1-77; Am. Ord. passed 10-6-08)

§ 70.02 OBEDIENCE TO POLICE REQUIRED.

(A) No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer.

(B) In the event of a fire or other emergency or when it is necessary to expedite traffic or to safeguard pedestrians, police officers may direct traffic as conditions may require, notwithstanding the provisions of this code.

('87 Code, § 70.01) (Ord. passed 1-1-77) Penalty, see § 70.99

§ 70.03 APPLICATION TO PUBLIC EMPLOYEES.

(A) The provisions of this code shall apply to the driver of any vehicle owned by or used in the service of the United States government, this state, county, or town, and it shall be unlawful for any driver of such vehicle to violate any of the provisions of this traffic code. (Ord. passed 1-1-77)

(B) While actually engaged in maintenance or construction work on the highways, but not while traveling to or from such work, drivers of vehicles owned or operated by the state or any political subdivision thereof are exempt from all provisions of this code and of state law, except with regard to impaired driving, reckless driving, speed restrictions, unlawful racing, and felony or misdemeanor death by a vehicle. (G.S. § 20-168)

('87 Code, § 70.03)

§ 70.04 APPLICATION TO AUTHORIZED EMERGENCY VEHICLES.

(A) The provisions of this code regulating the operation, parking, and standing of vehicles shall also apply to authorized emergency vehicles as defined in § 70.01. However, unless otherwise directed by a police officer, a driver when operating such vehicle in an emergency may:

(1) Park or stand, notwithstanding the provisions of this code.

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.

(3) Exceed the prima facie speed limit as long as he or she does not endanger life or property.

(4) Disregard regulations governing direction of movement or turning in specified directions as long as he or she does not endanger life or property.

(B) The foregoing exemptions shall not, however, protect the driver of any authorized emergency vehicle from the consequences of his or her reckless disregard for the safety of others.
(‘87 Code, § 70.04) (Ord. passed 1-1-77)

§ 70.05 APPLICATION TO PUSHCARTS, BICYCLES, AND ANIMAL-DRIVEN VEHICLES.

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

(‘87 Code, § 70.05) (Ord. passed 1-1-77)

§ 70.06 SCHOOL ZONES.

Whenever authorized signs are placed which prescribe any street or part thereof as a school zone, drivers of motor vehicles and operators of streetcars using that street or part thereof shall exercise the greatest care for the protection of children.

(‘87 Code, § 70.06) (Ord. passed 1-1-77) Penalty, see § 70.99

§ 70.07 ZONE OF QUIET.

Whenever authorized signs are placed which indicate a zone of quiet, the person operating a motor vehicle within any such zone shall not sound the horn or any other warning device of the vehicle, except in an emergency.

(‘87 Code, § 70.07) (Ord. passed 1-1-77) Penalty, see § 70.99

§ 70.08 PLAY STREETS.

Whenever authorized signs are placed which prescribe any street or part thereof as a play street, no person shall drive a vehicle upon any such prescribed street, except persons who have business or

reside within the prescribed area. Such persons shall exercise the greatest care for the protection of children.

('87 Code, § 70.08) (Ord. passed 1-1-77) Penalty, see § 70.99

§ 70.09 LOADS AND EQUIPMENT.

(A) Motor vehicles with or without load in excess of three tons are prohibited from traveling on the following streets: Circle Dr. on that portion from Roxboro St. (NC 49) intersection of the 100 block of Roxboro St. and the intersection with Johnson St.

(B) Motor vehicles carrying loads in excess of five tons are prohibited from traveling on the following streets:

(1) Hopedale Rd. from Roma Rd. (State Route 1740) to Keck Rd.

(2) Keck Rd. from Roxboro St. (NC 49) to Isley Rd. (State Route 1745).

('87 Code, § 73.01) (Ord. passed 1-1-77) Penalty, see § 70.99

§ 70.10 COMPRESSION BRAKING.

Drivers of motor vehicles equipped with a compression braking system are prohibited from using, employing or operating said system while operating said motor vehicle within the town limits of the Town of Haw River.

(Ord. passed 10-6-08)

TRAFFIC-CONTROL DEVICES

§ 70.20 OBEDIENCE TO TRAFFIC-CONTROL DEVICES REQUIRED.

(A) The driver of any vehicle shall obey the direction of any official traffic-control device placed in accordance with the traffic regulations of this town, subject to certain exceptions which are granted the driver of an authorized emergency vehicle in § 70.04 of this code, unless otherwise directed by a police officer.

(B) No provision of this code which provides for signs shall be enforced against an alleged violator if at the time and place of the alleged violation the official sign is not in proper position or is insufficiently legible to an ordinarily observant person. Whenever a particular section does not stipulate signs, the section shall be effective without signs being placed to give notice thereof.

('87 Code, § 70.20) (Ord. passed 1-1-77) Penalty, see § 70.99

§ 70.21 TRAFFIC-CONTROL SIGNAL LEGEND.

(A) *Authorization.* The town, with reference to highways under its jurisdiction, is hereby authorized to control vehicles:

(1) At intersections, by erecting or installing stop signs requiring vehicles to come to a complete stop at the entrance to that portion of the intersection designated as the main traveled or through highway. Stop signs may also be erected at three or more entrances to an intersection.

(2) At appropriate places other than intersections, by erecting or installing stop signs requiring vehicles to come to a complete stop.

(3) At intersections and other appropriate places, by erecting or installing steady-beam stoplights and other traffic-control devices, signs, or signals. All steady-beam stoplights emitting alternate red and green lights shall be arranged so that the red light shall appear at the top of the signaling unit and the green light shall appear at the bottom of the signaling unit.

(4) At intersections and other appropriate places, by erecting or installing flashing red or yellow lights.

(B) *Control of vehicles at intersections.*

(1) When a stop sign has been erected or installed at an intersection, it shall be unlawful for the driver of any vehicle to fail to stop in obedience thereto and yield the right-of-way to vehicles operating on the designated main-traveled or through highway. When stop signs have been erected at three or more entrances to an intersection, the driver, after stopping in obedience thereto, may proceed with caution.

(2) Vehicles facing a red light from a steady or strobe beam stoplight shall not enter the intersection while the steady or strobe beam stoplight is emitting a red light. However, except where prohibited by an appropriate sign, vehicular traffic facing a red light, after coming to a complete stop at the intersection, may enter the intersection to make a right turn, but such vehicle shall yield the right-of-way to pedestrians and to other traffic using the intersection. When the stoplight is emitting a steady yellow light, vehicles facing the yellow light are warned that a red light will be immediately forthcoming. When the stoplight is emitting a steady green light, vehicles may proceed with due care through the intersection subject to the rights of pedestrians and other vehicles as may otherwise be provided by law.

(3) When a flashing red light has been erected or installed at an intersection, approaching vehicles facing the red light shall stop and yield the right-of-way to vehicles in or approaching the intersection. The right to proceed shall be subject to the rules applicable to making a stop at a stop sign.

(4) When a flashing yellow light has been erected or installed at an intersection, approaching vehicles facing the yellow flashing light may proceed through the intersection with caution, yielding the right-of-way to vehicles in or approaching the intersection.

(5) When a stop sign, stoplight, flashing light, or other traffic-control device authorized by division (A) requires a vehicle to stop at an intersection, the driver shall stop at an appropriately marked stop line, or if none, before entering a marked crosswalk, or if none, before entering the intersection at the point nearest the intersecting street where the driver has a view of approaching traffic on the intersecting street.

(C) Control of vehicles at places other than intersections.

(1) When a stop sign has been erected or installed at a place other than an intersection, it shall be unlawful for the driver of any vehicle to fail to stop in obedience thereto and yield the right-of-way to pedestrians and other vehicles.

(2) When a stoplight has been erected or installed at a place other than an intersection and is emitting a steady red light, vehicles facing the red light shall come to a complete stop. When the stoplight is emitting a steady yellow light, vehicles facing the light shall be warned that a red light will be immediately forthcoming and that vehicles may not proceed through such a red light. When the stoplight is emitting a steady green light, vehicles may proceed subject to the rights of pedestrians and other vehicles as may otherwise be provided by law.

(3) When a flashing red light has been erected or installed at a place other than an intersection, approaching vehicles facing the light shall stop and yield the right-of-way to pedestrians or other vehicles.

(4) When a flashing yellow light has been erected or installed at a place other than an intersection, approaching vehicles facing the light may proceed with caution, yielding the right-of-way to pedestrians and other vehicles.

(5) When a stoplight, stop sign, or other signaling device authorized by division (A) requires a vehicle to stop at a place other than an intersection, the driver shall stop at an appropriately marked stop line, or if none, before entering a marked crosswalk, or if none, before proceeding past the signaling device.

(G.S. § 20-158) ('87 Code, § 70.21) (Ord. passed 1-1-77) Penalty, see § 70.99

TRAFFIC CITATIONS

§ 70.35 TRAFFIC CITATION PROCEDURE.

(A) The Town Manager shall appoint or designate a sufficient number of receipt clerks so that there shall be on duty at the town hall one receipt clerk during normal business hours (8:00 a.m. to 5:00 p.m.) Monday through Friday. The receipt clerk on duty at the time when any violator of a section of this traffic code comes to the town hall shall deal with the violator and his or her citation in accordance with

the provisions of this section, being careful to make it appear to the violator that the procedure under this section is wholly for the convenience of the violator, that he or she is at perfect liberty to decline to be dealt with under this section and to have his or her matter presented to the district court, and that his or her case will in no manner whatsoever be prejudiced by reason of his or her unwillingness to have the matter dealt with hereunder.

(B) The following duties are hereby imposed upon the receipt clerk and the Police Chief.

(1) The receipt clerk shall accept designated penalties and issue receipts.

(2) If a violator of the restrictions on stopping or parking under this traffic code or the state vehicle law does not appear in response to a notice affixed to the motor vehicle involved within a period of 72 hours after the affixing of the notice, the Police Chief shall send to the registered owner of the motor vehicle to which the notice was affixed a notice informing him or her of the violation and warning him or her that in the event the notice is disregarded for a period of seven days, a complaint will be filed and a warrant of arrest issued.

(3) In the event any person fails to comply with a notice as provided for in division (B)(2) or fails to make appearance pursuant to a citation directing an appearance before the receipt clerk within the time stated in the notice of citation, the Police Chief shall forthwith have a complaint entered against the person and secure and issue a warrant for his or her arrest.

(C) When a person charged with a violation referred to in § 70.31 appears before the receipt clerk on duty at the town hall in response to a traffic citation, the receipt clerk is authorized, if the person desires to do so, to allow him or her to sign the docket provided for in division (D) and pay the civil penalty. Upon such payment the receipt clerk shall issue a receipt for the money paid, showing what it was paid for.

(D) The Police Department shall establish and keep a traffic violations docket which shall contain the following language: "I hereby plead guilty to the charge and waive issuance of the summons. I hereby deposit the amount of the penalty and do this voluntarily for my own convenience," together with a place for the signature of the person charged. Opposite the place provided for the signature and on a line with the same shall appear sufficient data to identify the person charged and show the date of the charge, the citation number, the name and address of the person charged, the officer making the charge, a description of the charge, the number of the receipt issued to the person charged, and the amount of the penalty paid.

('87 Code, § 70.30) (Ord. passed 1-1-77)

§ 70.36 FINE SCHEDULE.

For the following violations of this traffic code, the following civil penalties are hereby affixed:

<i>Offense</i>	<i>Fine</i>
Parking over the allowed time	\$5
Parking in a nonparking space	\$5
Obstructing traffic	\$5
Parking more than 12 inches from a curb	\$5
Parking within 15 feet of a fire hydrant	\$5
Illegal use of loading zones, bus stops, or taxi stands (‘87 Code, § 70.31) (Ord. passed 1-1-77)	\$5

§ 70.99 PENALTY.

Any person violating a provision of this chapter to which no other specific penalty applies shall be responsible for an infraction and shall be required to pay a penalty of not more than \$50.

CHAPTER 71: TRAFFIC REGULATIONS

Section

General Provisions

- 71.01 Use of coasters, roller skates, and similar devices prohibited
- 71.02 Riding on handlebars prohibited
- 71.03 Clinging to vehicles
- 71.04 Driving through funeral procession
- 71.05 Driving on school property
- 71.06 Boarding, alighting from vehicles
- 71.07 Unlawful riding
- 71.08 Passengers to remain inside vehicle
- 71.09 Overcrowding front seat prohibited
- 71.10 Backing of vehicle

Speed Limits

- 71.25 General

Special Stops

- 71.40 Through streets
- 71.41 Stop when traffic obstructed

Turning Movements

- 71.55 Turning markers
- 71.56 Limitations on turning around

GENERAL PROVISIONS

§ 71.01 USE OF COASTERS, ROLLER SKATES, AND SIMILAR DEVICES PROHIBITED.

No person on roller skates or riding in any coaster, toy vehicle, or similar device shall go upon any

roadway, other than a street set aside as a play street, unless to cross a street at a crosswalk or intersection.

('87 Code, § 71.01) (Ord. passed 1-1-77) Penalty, see § 70.99

§ 71.02 RIDING ON HANDLEBARS PROHIBITED.

The operator of a motorcycle or bicycle when upon a street shall not carry any person upon the handlebars or tank of his or her vehicle, nor shall any person so ride upon any such vehicle.

('87 Code, § 71.02) (Ord. passed 1-1-77) Penalty, see § 70.99

§ 71.03 CLINGING TO VEHICLES.

Any person riding upon any bicycle, motorcycle, coaster, sled, roller skates, or any toy vehicle shall not attach the same or himself or herself to any public conveyance or moving vehicle upon any roadway.

('87 Code, § 71.03) (Ord. passed 1-1-77) Penalty, see § 70.99

§ 71.04 DRIVING THROUGH FUNERAL PROCESSION.

No vehicle may be driven through a funeral procession except Fire Department vehicles, police patrols, and ambulances, and only if these are responding to calls.

('87 Code, § 71.04) (Ord. passed 1-1-77) Penalty, see § 70.99

§ 71.05 DRIVING ON SCHOOL PROPERTY.

It shall be unlawful to drive any motor vehicle or horse-drawn vehicle upon or across any school property, except when on official business or that which pertains to school business.

('87 Code, § 71.05) (Ord. passed 1-1-77) Penalty, see § 70.99

§ 71.06 BOARDING, ALIGHTING FROM VEHICLES.

No person shall board or alight from any public conveyance or other vehicle while the conveyance or vehicle is in motion.

('87 Code, § 71.06) (Ord. passed 1-1-77) Penalty, see § 70.99

§ 71.07 UNLAWFUL RIDING.

(A) No person shall ride on any public conveyance or vehicle not designated or intended for the use of passengers. This provision shall not apply to any employee engaged in the necessary discharge of a duty nor to persons riding within truck bodies in spaces intended for merchandise.

(B) No person shall enter, jump on, or ride any automobile or other vehicle without the consent of the owner or driver.

('87 Code, § 71.07) (Ord. passed 1-1-77) Penalty, see § 70.99

§ 71.08 PASSENGERS TO REMAIN INSIDE VEHICLE.

No person shall allow any part of his or her body to protrude beyond the limits of the vehicle in which he or she is riding, except to give signals as are by law required. No person shall hang on to any vehicle whatsoever.

('87 Code, § 71.08) (Ord. passed 1-1-77) Penalty, see § 70.99

§ 71.09 OVERCROWDING FRONT SEAT PROHIBITED.

It shall be unlawful for the driver or the person in charge of any motor vehicle to permit more than three persons, including the driver, to ride in the front seat or driver's seat of a motor vehicle.

('87 Code, § 71.09) (Ord. passed 1-1-77) Penalty, see § 70.99

§ 71.10 BACKING OF VEHICLE.

The driver of a vehicle shall not back it into any intersection or over a crosswalk nor shall he or she back it otherwise unless the movement can be made in safety and unless ample warning has been given by hand and horn or other signals.

('87 Code, § 71.10) (Ord. passed 1-1-77) Penalty, see § 70.99

SPEED LIMITS

§ 71.25 GENERAL.

Except in those cases in which speed limits differing from those provided by state law have been adopted by ordinance, and made effective by the adoption of a concurring ordinance by the State Board of Transportation where required by state law, and by the erection within the town of signs giving notice of the authorized speed limits, the speed limits established by G.S. § 20-141 shall apply within the town. A schedule of all authorized variations from such limits is set forth in Chapter 73, Schedule IV.

('87 Code, § 71.20)

Statutory reference:

The general speed limit within municipal corporate limits as set by the state is 35 miles per hour, see G.S. § 20-141 (b)(1)

SPECIAL STOPS**§ 71.40 THROUGH STREETS.**

When appropriate stop signs are placed upon highways which intersect a through street (see those specific streets listed in Chapter 73, Schedule I), the driver shall bring his or her vehicle to a stop before entering the intersection, and he or she shall not proceed into or across the through street until he or she has first determined that no conflict with traffic will ensue.

('87 Code, § 71.30) (Ord. passed 1-1-77) Penalty, see § 70.99

§ 71.41 STOP WHEN TRAFFIC OBSTRUCTED.

No driver shall move his or her vehicle across an intersection or a marked crosswalk unless he or she knows that there is sufficient space on the other side of the intersection or crosswalk to accommodate his or her vehicle without obstructing the passage of other vehicles or pedestrians although a traffic-control signal may indicate his or her right to proceed.

('87 Code, § 71.31) (Ord. passed 1-1-77) Penalty, see § 70.99

TURNING MOVEMENTS**§ 71.55 TURNING MARKERS.**

Whenever authorized signs are placed, erected, or installed which indicate that no right, left, or U-turn is permitted, the driver of a vehicle shall obey the directions of that sign. When authorized markers, buttons, or other indications are placed within an intersection which indicate the course to be traveled by vehicles traversing or turning, the driver of a vehicle shall obey the directions of such indications.

('87 Code, § 71.40) (Ord. passed 1-1-77) Penalty, see § 70.99

§ 71.56 LIMITATIONS ON TURNING AROUND.

No driver shall turn any vehicle and proceed in the opposite direction within the business district except at street intersections. No vehicle, however, shall make such a turn at certain street intersections set forth in Chapter 73, Schedule III.

('87 Code, § 71.41) (Ord. passed 1-1-77) Penalty, see § 70.99

CHAPTER 72: PARKING

Section

- 72.01 Vehicles not to stop in streets; exceptions
- 72.02 Parking parallel to curb
- 72.03 Vehicle backed up to curb
- 72.04 Stopping, standing, and parking prohibited
- 72.05 Obedience to signs
- 72.06 Obstruction of traffic prohibited
- 72.07 Parking for sale or maintenance prohibited
- 72.08 Parking for advertising purposes
- 72.09 Moving vehicle of other operator into restricted area
- 72.10 Loading zones
- 72.11 Reservation of powers

- 72.99 Penalty

§ 72.01 VEHICLES NOT TO STOP IN STREETS; EXCEPTIONS.

No vehicle shall stop in any street except for the purpose of parking as prescribed in this chapter, unless the stop is made necessary by the approach of a funeral or other procession which is given the right-of-way, by the stopping of a public conveyance, by the lowering of railway gates, by being given countermanding traffic signals, by the passing of some other vehicle or a pedestrian, or by some emergency. In all cases covered by these exceptions, the vehicle shall stop so as not to obstruct any footway, pedestrian aisle, safety zone, crossing, or street intersection if it can be avoided.

(‘87 Code, § 72.01) (Ord. passed 1-1-77) Penalty, see § 72.99

§ 72.02 PARKING PARALLEL TO CURB.

When not otherwise indicated by this chapter, all vehicles shall park parallel to the curb and not more than 12 inches therefrom.

(‘87 Code, § 72.02) (Ord. passed 1-1-77) Penalty, see § 72.99

§ 72.03 VEHICLE BACKED UP TO CURB.

In no case shall a vehicle remain backed up to the curb, except when actually loading or unloading. If the vehicle is horse-drawn, the horse shall stand parallel to the curb and face the direction of traffic. ('87 Code, § 72.03) (Ord. passed 1-1-77) Penalty, see § 72.99

§ 72.04 STOPPING, STANDING, AND PARKING PROHIBITED.

No person shall stop, stand, or park a vehicle, except when conflict with other traffic is imminent or when so directed by a police officer or traffic-control device, in any of the following places:

(A) On a sidewalk.

(B) On a crosswalk.

(C) Within 30 feet of any flashing beacon, stop sign, or traffic-control signal located at the side of a street or roadway.

(D) On either side of any street leading to a railroad underpass or an overhead bridge or 50 feet in any direction of the outer edge of the underpass or an overhead bridge.

(E) On either side of any street leading to a grade crossing within 50 feet of the closet rail; provided, that where existing permanent structures are located closer than 50 feet, parking may be permitted in front of the structures unless otherwise prohibited and if the parking does not block the view in either direction of the approach of a locomotive or train.

(F) Alongside or opposite any street excavation or obstruction if the stopping, standing, or parking would obstruct traffic.

(G) Upon any bridge or other elevated structure or within any underpass structure.

(H) Within 15 feet in either direction of the entrance to a hotel, theater, hospital, sanatorium, or any public building.

(I) On the roadway side of any vehicle stopping, standing, or parking at the edge or curb of a street.

(J) Within 15 feet of any fire plug or hydrant.

(K) Within 15 feet of any street intersection.

('87 Code, § 72.04) (Ord. passed 1-1-77) Penalty, see § 72.99

Statutory reference:

Prohibited parking, see G.S. § 20-162

§ 72.05 OBEDIENCE TO SIGNS.

Whenever authorized signs or markings are placed, erected, or installed which indicate no parking zones or safety zones, the driver of a vehicle shall obey these regulatory indications.
(‘87 Code, § 72.05) (Ord. passed 1-1-77) Penalty, see § 72.99

§ 72.06 OBSTRUCTION OF TRAFFIC PROHIBITED.

No vehicle shall so stand on any street as to interrupt or interfere with the passage of public conveyances or other vehicles.
(‘87 Code, § 72.06) (Ord. passed 1-1-77) Penalty, see § 72.99

§ 72.07 PARKING FOR SALE OR MAINTENANCE PROHIBITED.

No person shall stand or park a vehicle upon any street for the principal purpose of:

(A) Displaying it for sale.

(B) Washing, greasing, or repairing the vehicle, except repairs necessitated by an emergency.

(C) Storage thereof by garages, dealers, or other persons.

(D) Storage of any detached trailer or van when the towing unit has been disconnected.

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

(‘87 Code, § 72.07) (Ord. passed 1-1-77) Penalty, see § 72.99

§ 72.08 PARKING FOR ADVERTISING PURPOSES.

No person shall stand or park on any street any vehicle for the primary purpose of advertising.
(‘87 Code, § 72.08) (Ord. passed 1-1-77) Penalty, see § 72.99

§ 72.09 MOVING VEHICLE OF OTHER OPERATOR INTO RESTRICTED AREA.

No person shall move a vehicle not owned by that person into any prohibited area or sufficiently away from a curb to make such distance unlawful.
(‘87 Code, § 72.09) (Ord. passed 1-1-77) Penalty, see § 72.99

§ 72.10 LOADING ZONES.

Loading zones may be established or altered within the area covered by this chapter by the Town Council by inserting in the minutes of the Town Council any spaces to be so designated. All loading zones shall be clearly marked by a painted sign, the area painted yellow, and shall be used only for the loading and unloading of merchandise. No loading zone shall be used for private parking at any time. ('87 Code, § 72.10) (Ord. passed 1-1-77) Penalty, see § 72.99

§ 72.11 RESERVATION OF POWERS.

Nothing in this chapter shall be construed as prohibiting the town from providing for bus stops, taxicab stands, and other matters of similar nature, including the loading or unloading of trucks, vans, or other commercial vehicles.

('87 Code, § 72.11) (Ord. passed 1-1-77) Penalty, see § 72.99

§ 72.99 PENALTY.

Unless the provisions of §§ 70.35 and 70.36 are applicable, it is an infraction for any person to violate a provision of this chapter, punishable by a fine of not more than \$50.

('87 Code, § 72.99)

Statutory reference:

Penalty for parking violations, see G.S. § 14-4 (b)

CHAPTER 73: TRAFFIC SCHEDULES

Schedule

- I. Stop intersections
- II. Yield intersections
- III. Certain turns prohibited
- IV. Speed limits
- V. Truck routes

SCHEDULE I. STOP INTERSECTIONS.

The following street intersections are hereby declared to be stop intersections when entered from the streets first named. When stop signs are placed at these intersections, every driver of a vehicle shall stop before entering the intersections and shall not proceed into or across the through street until he or she has first determined that no conflict with traffic will ensue.

<i>Street</i>	<i>At Intersection With</i>
Bason Rd.	North Wilkins St. (State Rt. 1928)
Boundary St.	Pelham St. (east and west)
Cemetery St.	Lang St.
Cemetery St.	Quarry St. (State Rt. 1725)
Chris St.	Bason Rd. (State Rt. 1927)
Chris St.	Pine St. (State Rt. 1742)
Church St.	West Main St. (US 70)
Circle Dr.	Roxboro St. (NC 49)
Clayton Pl.	Lang Ct.
Clayton Pl.	Lang St.
Coldspring Ln.	Roxboro St. (NC 49)
Coldspring Ln.	Rolling Rd.

<i>Street</i>	<i>At Intersection With</i>
Douglas Rd.	Keck Rd.
Douglas Rd.	Roxboro St. (NC 49)
Elk St.	Short St.
Elm St.	West Main St. (US 70)
Ferris St.	East Main St. (US 70)
First St.	East Main St. (US 70)
Glen Oaks Rd.	Hopedale Rd.
Glen Oaks Rd.	Keck Rd.
Graham Rd.	West Main St. (US 70)
Hanover Rd.	West Main St. (US 70)
Highview St.	Keck Rd.
Isley Rd.	Roxboro St. (NC 49)
Johnson St.	Circle Dr.
Johnson St.	Roxboro St. (NC 49)
Jones St.	Graham Rd. (NC 49)
Keck Rd.	Isley Rd. (State Rt. 1745)
Keck Rd.	Roxboro St. (NC 49)
Lang Ct.	Lang St.
Lang Ct.	West Main St. (US 70)
Lang St.	West Main St. (US 70)
Nassau St.	East Main St. (US 70)
Norma St.	Graham Rd. (NC 49)
North Spray Pl.	East Main St. (US 70)
North State St.	East Main St. (US 70)
Oakwood Dr.	Lang St. (east and west)
Pelham St.	East Main St. (US 70)
Pine St.	East Main St. (US 70)

<i>Street</i>	<i>At Intersection With</i>
Pine St.	North Wilkins St. (State Rt. 1928) (east and west)
Pine St.	Roxboro St. (NC 49)
Pine St.	State St.
Quarry St.	West Main St. (US 70)
Red Oak Rd.	Keck Rd.
Red Oak Rd.	Rolling Rd.
Rolling Rd.	Keck Rd.
Roma Rd.	Hopedale Rd.
Second St.	East Main St. (US 70)
Sherri Dr.	Keck Rd.
South Spray Pl.	East Main St. (US 70)
South State St.	East Main St. (US 70)
Stone St.	East Main St. (US 70)
Sunset Dr.	Keck Rd.
Sunset Dr.	Rolling Rd. (east and west)
Sunset Dr.	Rolling Rd. (east and west)
Sunset Dr.	Roxboro St. (NC 49)
Third St.	Ferris St.
Thompson St.	Norma St.
Water Plant Rd.	East Main St. (US 70)

('87 Code, Ch. 74, Sch. I) (Ord. passed 1-1-77) Penalty, see § 70.99

SCHEDULE II. YIELD INTERSECTIONS.

The following intersections are hereby declared to be yield right-of-way intersections when entered from the streets first named. When yield right-of-way signs are placed at these intersections every driver of a vehicle shall yield the right-of-way before entering the intersection and shall not proceed into or across the through street until he or she has first determined that no conflict with traffic will ensue.

<i>Street</i>	<i>At Intersection With</i>
Bason Rd.	Roxboro St. (NC 49)
Church Cr.	Lang Ct.
North Wilkins St.	Roxboro St. (NC 49)

('87 Code, Ch. 74, Sch. II) (Ord. passed 1-1-77) Penalty, see § 70.99

SCHEDULE III. CERTAIN TURNS PROHIBITED.

(A) It shall be unlawful to make a U-turn at any stop light.

(B) It shall be unlawful to make a right turn at any of the following intersections while a red light is exhibited by a traffic-control signaling device.

Street***Location***

North Carolina Route 49 (south approach) State Route 1928

North Carolina Route 49 (south approach) State Route 1927

('87 Code, Ch. 74, Sch. III) (Ord. passed 1-1-77) Penalty, see § 70.99

SCHEDULE IV. SPEED LIMITS.

(A) Pursuant to the authority granted by G.S. § 20-141.1, it shall be unlawful to operate any motor vehicle upon the following listed streets at a greater rate of speed than 25 mph from 30 minutes before to 30 minutes after school ends on school days only.

<i>Street</i>	<i>Description</i>
Main St.	From a point .09 miles west of State Route 1740 to a point .04 miles west of North Carolina Route 49 (Haw River Elementary School)

(B) It shall be unlawful to operate any motor vehicle upon the following listed streets at a greater rate of speed than 45 mph.

<i>Street</i>	<i>Description</i>
East Main St. (US 70)	From a point .11 miles east of North Wilkins St. (State Rt. 1928) to the eastern corporate limit, a point .19 miles east of Water Plant Rd. (State Rt. 1938)
Hanover Rd. (State Rt. 1720)	From West Main St. (US 70) to the western corporate limits
Holt St. (State Rt. 1941)	From Graham Rd. (NC 49) to the southern corporate limits
North Wilkins St. (State Rt. 1928)	Using the center line of the road (western side), going south from Roxboro St. (NC 49) to East Main St. (US 70)
Roxboro St. (NC 49)	From Sunset Dr. to the northern corporate limit, a point .1 miles north of Isley Rd. (State Rt. 1745)
Jimmie Kerr Road (State Rt. 1928)	From the southern corporate limit a point .02 miles south of State Rt. 2014 (Haywood St.) northward to a point .15 miles north of State Rt. 2014 (Haywood St.)
Haw River Bypass (US 70)	From the west corporate limit a point .33 miles west of State Rt. 1725 (Haw River Cemetery Rd.) eastward to a point .15 miles east of State Rt. 1725 (Haw River Cemetery Rd.)
Roxboro St. (NC 49)	From Coldspring Ln. to the northern corporate limit, approximately .01 miles north of Isley Rd. (State Rt. 1745)
Roxboro St. (NC 49)	From Sunset Dr. to the northern corporate limit, a point .10 miles north of Isley Rd. (State Rt. 1745)

(C) It shall be unlawful to operate any motor vehicle upon the following listed streets at a greater rate of speed than 25 mph.

<i>Street</i>	<i>Description</i>
Circle Dr.	From a point where it intersects with East Main St. (NC 49) for approximately 1531 feet to where it intersects with East Main St. (NC 49) again.
Pine Street	From a point where it intersects with Roxboro Road (NC 49) for approximately 970 feet to where it intersects with North Wilkins Road.
North State Street	From a point where it intersects with East Main St. (NC 70) for until it dead ends into Pine Street.

(D) The maximum speed limit for Fairview Street is set at 20 miles per hour.

(E) The maximum speed limit for Hollar Street is set at 20 miles per hour.

(F) The maximum speed limit for Lang Court is set at 20 miles per hour.

('87 Code, Ch. 74, Sch. IV) (Ord. passed 3-1-77; Ord. passed 10-4-83; Ord. passed 11-1-83; Ord. passed 5-2-88; Ord. passed 4-3-91; Ord. passed 12-7-92; Am. Ord. passed 10-4-99; Am. Ord. passed 8-3-15) Penalty, see § 70.99

SCHEDULE V. TRUCK ROUTES.

Trucks with three or more axles are prohibited from using the following streets unless making a pick-up or delivery to non-commercial property on the street or streets:

Coldspring Lane

Douglas Street

Glen Oaks Road

Highview Street

Red Oak Street

Sunset Drive

('87 Code, Ch. 75, Sch. I) (Ord. passed 1-1-77; Ord. passed 10-2-85; Am. Ord. passed 9-8-98; Am. Ord. passed 3-4-02; Am. Ord. passed 10-6-08) Penalty, see § 72.99

CHAPTER 74: PARKING SCHEDULES

Schedule

I. Parking prohibited at all times

SCHEDULE I. PARKING PROHIBITED AT ALL TIMES.

When signs are placed, erected, or installed which prohibit parking or when the curbing has been painted yellow in lieu of these signs, no person shall park a vehicle at any time upon any of the following streets.

<i>Street</i>	<i>Description</i>
Cemetery St. (US 70)	North side of the 500 block for 1400 feet from the west corner of the cemetery to Quarry St.
East Main St. (US 70)	North side of the 1600 block going west from the eastern corporate limits (Back Creek Bridge) for 310 feet
East Main St. (US 70)	South side of the 200 block for 58 feet beginning where South Tabardrey Rd. intersects with East Main St.
Lang St.	East side to the end of the 200 block from West Main St. (US 70)
Stone St. (State Rt. 1935)	East side of the 100 block for 365 feet from the intersection of East Main St. (US 70)
Fairview St.	East and west side within 100 feet of the intersection of West Main St.

('87 Code, Ch. 75, Sch. I) (Ord. passed 1-1-77; Ord. passed 10-2-85; Am. Ord. passed 9-8-98) Penalty, see § 72.99

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. PARKS AND RECREATION**
- 91. STREETS AND SIDEWALKS**
- 92. PARADES, PICKET LINES, AND GROUP DEMONSTRATIONS**
- 93. EXPLOSIVES**
- 94. NUISANCES; HEALTH AND SANITATION**
- 95. ABANDONED VEHICLES**
- 96. ANIMALS**
- 97. RESIDENTIAL SALES**

CHAPTER 90: PARKS AND RECREATION

Section

- 90.01 Purpose
- 90.02 Rules for use and maintenance of parks
- 90.03 Compliance required
- 90.04 Special use permit
- 90.05 Prohibited activities
- 90.06 Open fires prohibited
- 90.07 Closing section of park, facilities to public
- 90.08 Misuse of parks and recreation facilities

- 90.99 Penalty

§ 90.01 PURPOSE.

The purpose of this chapter is to establish regulations for the public health, safety, and welfare in respect to the recreational activities, programs, and facilities of the town. This chapter is designed to maximize the enjoyment of recreation in the town, its recreation facilities, and programs and to offer protection from conditions which could harm, injure, or offend any group or individual.
(‘87 Code, § 97.01) (Ord. passed 5-2-84)

§ 90.02 RULES FOR USE AND MAINTENANCE OF PARKS.

The Recreation and Parks Supervisor, the Recreation and Parks Department, the Recreation and Parks Advisory Committee, and other designees have the authority and responsibility to establish and enforce any rules and regulations governing the use and maintenance of parks and recreational facilities.
(‘87 Code, § 97.02) (Ord. passed 5-2-84)

§ 90.03 COMPLIANCE REQUIRED.

Users of all park and recreation facilities shall adhere not only to this chapter but also to any policies and procedures set by the Recreation and Parks Department.
(‘87 Code, § 97.03) (Ord. passed 5-2-84) Penalty, see § 90.99

§ 90.04 SPECIAL USE PERMIT.

Any requests for special events or use of the parks and facilities shall be presented to the Recreation and Parks Supervisor at which time a permit may be issued and any fees will be assessed.
(‘87 Code, § 97.04) (Ord. passed 5-2-84)

§ 90.05 PROHIBITED ACTIVITIES.

It shall be unlawful for any person in any park, recreation area, playground, ballfield, tennis court, or any other recreation facility and the parking facilities thereof, owned or controlled by the town to:

(A) Willfully mark, deface, disfigure, injure, tamper with, or remove any structure, equipment, facilities, or other property, either real or personal.

(B) Damage, cut, carve, transplant, or remove any tree, injure the bark, pick the flowers or seeds of any tree or plant, dig or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area.

(C) Bring in, dump, deposit, or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, wastes, garbage, refuse, or other trash.

(D) Fail to obey all traffic officers and recreation personnel and volunteers, such persons being hereby authorized and instructed to direct traffic whenever and wherever needed in the parks.

(E) Fail to observe carefully all traffic signs indicating speed, direction, caution, stopping, or parking and all others posted for proper control and to safeguard life and property.

(F) Drive any motor vehicle, minibike, minicycle, motorcycle, or any other vehicle whatsoever upon any area except the paved or graveled park roads or parking areas or other areas as may be designated specifically by the Recreation and Parks Supervisor or his or her designee. It shall be within the discretion of the Recreation and Parks Supervisor to ban such vehicles as may be detrimental to the facility on account of excessive noise, fumes, smoke, tire damage, or other forms of nuisance or damage.

(G) Park any motor vehicle, minibike, motorcycle, or other vehicle in other than an established or designated parking area.

(H) Boat, swim, bathe, wade, or fish in any waters or waterways in or adjacent to any park, except in such waters and at such places as are provided therefor, and in compliance with those regulations as are herein set forth or as may be established by the Recreation and Parks Department.

(I) Allow or permit any horse, dog, or other animal to run at large.

(J) Violate the regulation that use of the individual picnic sites and picnic shelters, together with tables and benches, follows generally the rule of first come, first served, unless a picnic reservation has been issued according to established town policy.

(K) Leave a picnic area or shelter before the fire is completely extinguished and before all trash in the nature of boxes, papers, cans, bottles, garbage, and other refuse is placed in receptacles provided. If no trash receptacles are available, then refuse and trash shall be carried away from the park area by the user to be properly disposed of elsewhere.

(L) Camp in any area without permission of the Recreation and Parks Supervisor or his or her designee. No person shall set up tents, shacks, or any other temporary shelter for the purpose of overnight camping, nor shall any person leave in any park after closing hours any movable structure or special vehicle to be used or that could be used for this purpose, such as a camper-trailer, house trailer, or the like, without permission of the Recreation and Parks Supervisor.

(M) Bring or have in his or her possession, set off, or otherwise cause to explode, discharge, or burn any firecrackers or other fireworks or explosives or discharge or throw them into any such area from land or highway adjacent thereto.

(N) Build or attempt to build a fire except in those areas and under those regulations as may be designated for the purpose. No person shall drop, throw, or otherwise scatter lighter matches, burning cigarettes or cigars, or other inflammable material within any park area or on any highway, road, or street abutting or contiguous thereto.

(O) Enter an area posted as "closed to public."

(P) Engage in disorderly conduct as defined by G.S. § 14-288.4(a).

(Q) Disturb or interfere unreasonably with any person or party occupying any area or participating in any authorized activity.

(R) Sell food, beverages, or merchandise or solicit donations for any individual, group, company, or corporation which is not solely nonprofit in nature.

(S) Carry, use, or possess firearms or other dangerous weapons of any nature within any park except that nothing in this section shall prohibit a person from storing a firearm within a motor vehicle while the vehicle is on park grounds or areas. However, this division shall not apply to law enforcement officers when engaged in the discharge of their duties. Nothing herein contained shall prevent specific authorization by the Recreation and Parks Supervisor or his or her designee of such events as archery training, practice, or exhibition of gun shows or exhibitions not including the firing of firearms.

(T) Enter, use, or remain within any park between the hours of 11:00 p.m. and 9:00 a.m. in the spring and summer, and 6:00 p.m. and 9:00 a.m. in the fall and winter. Unless a town-sponsored event is delayed or a written permit therefor has been obtained from the Recreation and Parks Supervisor or

his or her designee, spring and summer hours will be in effect Easter Monday through October 30. Fall and winter hours will be in effect October 31 through Easter Sunday.

(U) Bring upon, possess, consume, or display beer, wine, whiskey, other intoxicating liquor or beverage, or controlled substances, or the containers thereof, within the confines of any parks and recreation area. It shall be prohibited for a person under the influence of alcohol or any controlled substance to enter or remain in a recreation facility or program.

('87 Code, § 97.05) (Ord. passed 5-2-84; Am. Ord. passed 10-7-13; Am. Ord. passed 11-2-15) Penalty, see § 90.99

§ 90.06 OPEN FIRES PROHIBITED.

No open fires are allowed. All fires must be contained in grills or a designated area provided by the town or the user.

('87 Code, § 97.06) (Ord. passed 5-2-84) Penalty, see § 90.99

§ 90.07 CLOSING SECTION OF PARK, FACILITIES TO PUBLIC.

Any section or part of any park or recreation area or facility may be declared closed to the public by the town at any time and for any interval of time, either temporarily or at regular and stated intervals, daily or otherwise, and to certain uses.

('87 Code, § 97.07) (Ord. passed 5-2-84)

§ 90.08 MISUSE OF PARKS AND RECREATION FACILITIES.

Flagrant misuse of parks and recreation facilities will result in the forfeiture of future use and reservation privileges.

('87 Code, § 97.08) (Ord. passed 5-2-84) Penalty, see § 90.99

§ 90.99 PENALTY.

(A) Any person who shall violate the provisions of this chapter shall be guilty of a misdemeanor punishable by a fine of not more than \$50 or imprisonment for not more than 30 days, in the discretion of the court, as provided by G.S. § 14-4.

(B) The Recreation and Parks Supervisor or his or her designee, any authorized town employee, or any law enforcement agency shall have the authority to eject from any recreation facility any person acting in violation of this chapter or other rules and regulations enacted pursuant to this chapter by the Recreation and Parks Advisory Committee.

('87 Code, § 97.99) (Ord. passed 5-2-84)

CHAPTER 91: STREETS AND SIDEWALKS

Section

General Provisions

- 91.01 Injury to streets, sidewalks
- 91.02 Obstructing streets, sidewalks
- 91.03 Snow and ice removal
- 91.04 Throwing, burning trash on street or sidewalk
- 91.05 Gate opening on street, sidewalk
- 91.06 Use of streets for recreation
- 91.07 Bicycles, motorbikes on sidewalks prohibited

Street Acceptance and Improvement

- 91.20 Policy established
- 91.21 Procedure for acceptance of new street
- 91.22 Petition for street improvements
- 91.23 Street improvement project procedure
- 91.24 Sidewalk improvements
- 91.25 Installation of utilities
- 91.26 Responsibility of property owners
- 91.27 Opening, improving streets without petition
- 91.28 Construction according to specifications
- 91.29 Resurfacing improvements

Driveway Criteria

- 91.40 Residential
- 91.41 Commercial/Industrial

Overhanging Signs and Marquees

- 91.55 Definitions
- 91.56 Permit required
- 91.57 Application for permit; fee
- 91.58 Bond
- 91.59 Construction of signs, awnings, or marquees
- 91.60 Inspections
- 91.61 Existing signs, awnings, or marquees

GENERAL PROVISIONS**§ 91.01 INJURY TO STREETS, SIDEWALKS.**

No person shall injure, deface, or mar in any manner whatsoever any of the streets or sidewalks. The town shall have the right and privilege to repair any injury, defacement, or marring and assess the cost thereof against the offender.

('87 Code, § 98.01) (Ord. passed 12-2-74) Penalty, see § 10.99

§ 91.02 OBSTRUCTING STREETS, SIDEWALKS.

(A) It shall be unlawful to build, erect, construct, or place any porch, steps, fence, wall, or other obstruction whatsoever in or over any of the streets or sidewalks. Further, it shall be unlawful to repair or improve any porch, fence, wall, or other obstruction whatsoever now in or over any of the streets or sidewalks.

(B) It shall be unlawful to obstruct any sidewalk or street with any wheelbarrow, wagon, automobile, truck, or other vehicle, railroad car, chair, bench, box, or other article. However, merchants may use the sidewalk for unpacking or opening merchandise, but must immediately remove the packing and merchandise therefrom. This division shall not apply to baby carriages and invalid chairs rolled on the sidewalks in a manner as not to obstruct the same.

(C) It shall be the duty of the Town Manager to notify all persons about to erect any building, sidewalk, wall, or fence near the street or any public way or alley not to encroach upon the street or public alley, and if, in the opinion of the Mayor and Town Council, any such obstruction is being or has been constructed after the passage of this chapter on any street or alley, the Mayor shall cause a survey of the line of the street or alley to be made by a competent surveyor. If the survey shall show that the street or alley is obstructed by a building, sidewalk, wall, or fence, the owner shall be required to pay the costs of the survey and be required to remove all obstructions at once. No person who shall be found to have encroached on any street or public way or alley by any building, sidewalk, wall, or fence shall refuse or neglect to remove the same upon notice from the Mayor within one week from the date thereof.

(D) Any person desiring to place upon any of the streets or sidewalks of the town material for the construction of buildings shall first obtain permission to do so from the Town Manager, and immediately on the completion of the building or structure they shall clean up and remove from the streets and sidewalks all lumber, bricks, sand, or litter of any kind placed there while constructing the building. ('87 Code, § 98.02) (Ord. passed 12-2-74; Am. Ord. passed 12-3-79) Penalty, see § 10.99

§ 91.03 SNOW AND ICE REMOVAL.

Every occupant of a store building in front of which the sidewalk is paved with stone, brick, asphalt, or cement shall remove snow, ice, or other obstruction from the sidewalk at the earliest possible time and as soon as the weather permits.

('87 Code, § 98.03) (Ord. passed 12-2-74) Penalty, see § 10.99

§ 91.04 THROWING, BURNING TRASH ON STREET OR SIDEWALK.

It shall be unlawful to place or cause to be placed in any of the streets or sidewalks or in or about any public building any trash or rubbish of any description or to burn the same in any of the aforementioned places.

('87 Code, § 98.04) (Ord. passed 12-2-74) Penalty, see § 10.99

§ 91.05 GATE OPENING ON STREET, SIDEWALK.

No gate to any residence, lot, or other enclosure in the town shall swing or open outward over the street or sidewalk. Each day any gate is allowed to open outward over the sidewalk or street shall constitute a separate offense.

('87 Code, § 98.05) (Ord. passed 12-2-74) Penalty, see § 10.99

§ 91.06 USE OF STREETS FOR RECREATION.

No person shall engage in ball games, dances, or other forms of recreation on the public streets without permission and lawful designation by the Town Council.

('87 Code, § 98.06) (Ord. passed 12-2-74) Penalty, see § 10.99

§ 91.07 BICYCLES, MOTORBIKES ON SIDEWALKS PROHIBITED.

It shall be unlawful for any person to ride a bicycle or motorbike on any sidewalk in the town.

('87 Code, § 98.08) (Ord. passed 12-2-74) Penalty, see § 10.99

STREET ACCEPTANCE AND IMPROVEMENT**§ 91.20 POLICY ESTABLISHED.**

The policy of the town for the acceptance of streets dedicated for public use and the policy for improving all streets shall be as hereinafter prescribed in this subchapter.
(‘87 Code, § 98.10) (Ord. passed 4-7-75)

§ 91.21 PROCEDURE FOR ACCEPTANCE OF NEW STREET.

No street, alley, or other public way dedicated for public use within the town will be accepted by the town as a public street, and no maintenance or improvement will be authorized thereon unless the following requirements are met:

(A) Prior to opening any street, alley, or other public way, the property owner, owners, or developer shall submit a preliminary plan to the Town Council for their approval. The preliminary plan shall show the location of the proposed street, alley, or other public way, the right-of-way width, all adjacent property owners, watercourses, and other information as the Town Council may require.

(B) Minimum standards for new streets and extensions of existing streets or alleys for which approval is required shall be as follows:

(1) A minimum right-of-way width of 50 feet dedicated for street purposes. In addition, the Town Council may require a right-of-way width greater than 50 feet if the street is to be used as a major thoroughfare or where greater widths are required by a major street plan.

(2) A minimum right-of-way of 20 feet for all service alleys.

(3) Streets shall conform to the general street plan or major thoroughfare plan of the town as to location.

(4) Streets shall intersect at right angles and the street alignment shall not change more abruptly than a vertical curve of 1,000 foot radius except where existing conditions justify a modification of this requirement by the Town Council.

(C) If the street plan is approved, the owner, owners, or developer shall be required to make the following improvements at no cost to the town prior to the town accepting the street or alley as a public street.

(1) The right-of-way shall be cleared and graded to its final grade for the full width of the right-of-way. Grades shall not, as far as practical, exceed 5%.

(2) Streets shall be crowned and adequate street drainage ditches provided in accordance with the street improvement construction specifications of the town.

(3) Top soil, gravel, or other suitable base course material shall be put in place for a minimum width of 30 feet, which shall be the minimum width for an improved street. Additional improved street widths may be required for major thoroughfares by the Town Council; provided, the improved width of alleys need not exceed 20 feet.

(D) When the requirements of this section have been met to the satisfaction of the Town Council and the Town Engineer, the Town Council may by resolution accept the street or alley for public use. ('87 Code, § 98.11) (Ord. passed 4-7-75)

§ 91.22 PETITION FOR STREET IMPROVEMENTS.

(A) From and after the effective date of this chapter, the town will not consider paving or otherwise improving any street or alley unless a petition is presented to the Town Council on forms provided by the town, signed by a majority of the property owners who represent a majority of the lineal footage on the street proposed to be improved requesting that the total cost of the improvement be assessed against the abutting property owners.

(B) Street improvements for all streets which shall be included in the property owners' petition, the total cost of which shall be assessed against the abutting property owners, shall include the following:

(1) Storm sewer drainage facilities, including a drainage pipe 30 inches or less in diameter, inlets, and other necessary incidentals as may be required by town specifications.

(2) Curb and gutter as required by town specifications.

(3) Grading for a width of 30 feet on those streets which were opened prior to the effective date of this chapter and which need to be graded prior to surfacing.

(4) Base course material for a width of 30 feet if existing base course is not adequate in accordance with town specifications.

(5) Street surfacing according to town specifications for a width of 30 feet.

(C) The improvement costs for street widths in excess of 30 feet, the cost of required drainage facilities which are larger in size than required herein, and the total cost of all improvements at street intersections shall not be assessed against abutting property owners and shall be paid for by the town. ('87 Code, § 98.12) (Ord. passed 4-7-75)

Statutory reference:

Petitions for improvements, see G.S. § 160A-217

§ 91.23 STREET IMPROVEMENT PROJECT PROCEDURE.

(A) Upon the receipt of a petition for street improvements, the Town Manager shall examine the petition and certify as to its sufficiency to the Town Council. No petition shall be considered for street improvements where streets have been opened after the effective date of this chapter in violation of § 92.21. In addition, no petition shall be considered for a street less than one normal block in length.

(B) If the petition from the property owners is found to be sufficient, the Town Council shall direct the Town Engineer to estimate the total cost of the street project in accordance with street specifications and determine the total cost per foot of property frontage and the total cost to the town for intersections and other improvements, the cost of which is to be borne by the town.

(C) When cost estimates are received, the Town Council shall consider the availability of funds for street improvements, the degree of development along the street proposed to be improved, and may approve the street improvement project as they deem best.

(D) When a street improvement project is approved, the property owners abutting the improvement shall be notified of the total estimated cost based on an equal rate per foot of frontage or other assessment basis, as set forth in G.S. § 160A-218, and further notified that each owner has the opportunity to pay his or her proportionate share in cash in advance. In addition, the property owners shall be notified that the project will not be scheduled or construction work started until 80% of the total estimated cost of the entire project is deposited with the town.

(E) When the required amount has been deposited with the town, the street improvement assessment procedure as authorized in G.S. Chapter 160A, Article 10 shall be followed and assessments shall be made against the properties abutting upon the improvement according to an equal rate per front foot or such other basis of assessment as authorized in the General Statutes. Property owners who have made a cash deposit in advance as required herein shall be credited for these payments on the assessment rolls. In accordance with the requirements of G.S. §§ 160A-232 and 160A-233(a), property owners not paying assessments in cash in advance shall pay their assessments in five equal annual installments which shall bear interest at the rate of 8% per annum.

(F) In the event the actual cost of improvements is less than the estimated cost, the excess shall be refunded to the property owners. In the event the actual cost exceeds the estimated cost, the property owners will be assessed for this amount or may pay such amount in cash in the manner provided by law. ('87 Code, § 98.13) (Ord. passed 4-7-75)

§ 91.24 SIDEWALK IMPROVEMENTS.

Petitions for street improvements may include requests for sidewalk improvements in accordance with town specifications. Sidewalk improvements may be constructed as part of the street improvement project and in the same manner, except that 100% of the total cost of sidewalk improvements, exclusive of the cost at intersections, shall be assessed against the property owner.

('87 Code, § 98.14) (Ord. passed 4-7-75)

§ 91.25 INSTALLATION OF UTILITIES.

The Town Council, prior to approving any project or authorizing any street improvement, shall determine if water and sanitary sewer facilities have been installed within that portion of the street located between curbs. If these facilities have not been installed or if the facilities are inadequate and will have to be replaced, the Town Council shall postpone the street improvement project pending the installation of these facilities.

('87 Code, § 98.15) (Ord. passed 4-7-75)

§ 91.26 RESPONSIBILITY OF PROPERTY OWNERS.

(A) Property owners along streets which are surfaced and have a curb and gutter are responsible for replacing any driveway or walkway within the street right-of-way as a result of new street construction improvements. Driveway entrances and aprons at the curb line will be constructed by the town at the location designated by the property owner, and the cost thereof will be included in the total cost assessed for street improvements.

(B) Property owners shall be responsible for seeding, landscaping, or otherwise improving the area between curbs and the property line as they may desire, provided no walls or other permanent structures are located within the street right-of-way.

(C) Drainage pipes and other material on the right-of-way at the time of construction which were purchased by the property owner will be removed and placed on the lot of the owner for his or her disposition. The town will haul away these items if requested by the owner and with the owner's permission.

('87 Code, § 98.16) (Ord. passed 4-7-75)

§ 91.27 OPENING, IMPROVING STREETS WITHOUT PETITION.

When in the opinion of the Town Council a new street should be opened and improved and no petition is filed asking for the assessment of the cost thereof and when the Town Council is of the opinion that the public benefit will be greater than the benefit to abutting property owners, the Town Council may direct that the improvement be made and the entire cost thereof be paid by the town.

('87 Code, § 98.17) (Ord. passed 4-7-75)

§ 91.28 CONSTRUCTION ACCORDING TO SPECIFICATIONS.

All street grading, base course preparation, storm drainage, surfacing, curb and gutters, and other improvements shall be constructed in accordance with the written specifications of the town which have been approved by the Town Council. All work shall be done under the supervision of the Town Engineer.

('87 Code, § 98.18) (Ord. passed 4-7-75)

§ 91.29 RESURFACING IMPROVEMENTS.

Whenever it is necessary to resurface any street which has been surfaced under this policy as herein established, the town will undertake the resurfacing when funds are appropriated, and the town shall bear the entire cost of this work.

('87 Code, § 98.19) (Ord. passed 4-7-75)

DRIVEWAY CRITERIA**§ 91.40 RESIDENTIAL.**

The following are the criteria for driveways in residential areas:

(A) One driveway per residential lot, excepting:

(1) The corner lot may have one per lot side.

(2) Any lot may have a circular driveway with an opening at each end of the loop, provided they are separated by 50 feet of tangent.

(B) Width not to exceed 30 feet.

(C) Point of curvature of opening radius or point of curb elevation transition must be within the side lot line extended of the lot being served.

(D) Shall be 50 feet from an intersection.

(E) Shall conform to structural standards.

(F) The pipe shall be of concrete construction reinforced with wire. The size of the pipe shall be determined by the city after inspection of the drainage area.

(Ord. passed 12-4-89)

§ 91.41 COMMERCIAL/INDUSTRIAL.

The following are the criteria for driveways in commercial/industrial areas:

(A) Two driveways per lot, excepting that the corner lot may have two per side.

(B) The width shall not exceed 30 feet, excepting that driveways on state highways may be 36 feet in width.

(C) The point of curvature of the opening radius or point of curb elevation transition must be within the side lot line extended of the lot being served.

(D) Shall be 50 feet from an intersection.

(E) Shall conform to structural standards.

(F) The pipe shall be of concrete construction reinforced with wire. The size of the pipe shall be determined by the city after inspection of the drainage area.

(Ord. passed 12-4-89)

OVERHANGING SIGNS AND MARQUEES

§ 91.55 DEFINITIONS.

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

SIGN. Any device or structure maintained or used in the nature of an advertisement, announcement, or direction that is attached flat against the exterior walls of a building or projecting on or over the sidewalk, street, or other public place. However, signs or banners erected for a limited period of time for special occasions and any sign painted directly upon the hanging border of any marquee or awning constructed and maintained in the manner provided by ordinance shall not be considered to be within the definition or regulation of this subchapter.

MARQUEE. Any device or structure maintained or used as a canopy or sidewalk cover projecting from the side of any building over any public sidewalk, street, or other public place.

(‘87 Code, § 98.30) (Ord. passed 12-2-74)

§ 91.56 PERMIT REQUIRED.

No person shall erect or maintain any sign or marquee over any street, alley, sidewalk, or other public way or public place in the town without first having obtained, paid for, and having in force and effect a permit therefor from the Building Inspector as provided herein, nor without complying with all the provisions of this subchapter and all other laws applicable thereto.

('87 Code, § 98.31) (Ord. passed 12-2-74) Penalty, see § 10.99

§ 91.57 APPLICATION FOR PERMIT; FEE.

(A) Application for a permit to erect a sign or marquee shall be made in writing to the Building Inspector and shall contain the following information and such additional information reasonably required by the Building Inspector.

(1) The location of the building or structure to which the sign or marquee is to be attached and the position thereon of the sign or marquee.

(2) The materials to be used and the manner of construction.

(3) The written consent of the owner of the building if the application is made by other than the owner.

(B) The application for permit to erect a sign or marquee shall be accompanied by a scale drawing showing the elevation, size and shape, manner of attachment to the building, manner of construction, size and weight of all framing materials, thickness and weight of covering plates, if any, and a detailed specification of any electrical wiring and insulation to be used for each sign or marquee to be erected.

(C) The fee for a permit to erect a sign of less than 15 square feet in area shall be \$2. The fee for a permit to erect a marquee or a sign of more than 15 square feet in area shall be \$5.

('87 Code, § 98.32) (Ord. passed 12-2-74)

§ 91.58 BOND.

No permit required by § 98.56 shall be issued until the applicant shall have filed with the Town Manager a public liability insurance policy or surety bond thereon, approved by the Town Attorney, by a company duly licensed to transact business in the state, for the principal sum of not less than \$10,000 liability on account of any one accident, such policy or bond to be written in accordance with standard form now in general use and a duplicate thereof deposited with the Town Manager which policy or bond shall further carry an endorsement protecting the town as its interest may appear as the result of any accident or injury for which it might become liable in any manner.

('87 Code, § 98.33) (Ord. passed 12-2-74) Penalty, see § 10.99

§ 91.59 CONSTRUCTION OF SIGNS, AWNINGS, OR MARQUEES.

(A) All signs and marquees shall be constructed of galvanized iron, copper, brass, glass, or other noncorrosive, noncombustible material, except canvas awning which is hereby allowed. All marquees and all signs to be erected at an angle to the wall or roof of any building shall be attached by such noncorrosive metal bolts, anchors, cables, or other metal attachments as shall insure permanent and safe construction and shall be maintained free from rust and other defects. Every means or device used for attaching any sign shall extend through the walls or roof of the building and shall be securely anchored by wall plates and nuts to the inside of the wall or to bearings on the underside of two or more roof or ceiling joists, in accordance with instructions given by the Building Inspector. Small signs containing less than ten square feet of area may be attached flat to a building by the use of lag bolts or other means determined by the Building Inspector to protect the public safety.

(B) Every sign and its support and every marquee and its support shall be capable of withstanding a wind pressure of 30 pounds to the square foot with a safety factor of four. All signs attached parallel to a building shall be placed in close contact to the walls thereof; if attached at an angle to a building, the same shall be attached with an open space of not less than eight inches between any portion of the sign and the wall or roof or other portion of the building in order to avoid the accumulation of combustible substances.

(C) The lowest point of any support or appurtenance to any sign, awning, or marquee which extends over any street, sidewalk, public alley, public way, or place shall be at least ten feet above any place used by pedestrians alone and not less than 15 feet above any place used by vehicles. No marquee, awning, or projecting sign shall project from the face of the building or structure over a street, sidewalk, public alley, public way, or place more than ten feet, but in no case shall any sign or marquee project beyond a line drawn perpendicularly upward from two feet inside the curb line. No sign, awning, or marquee shall be supported from any point outside the property line. No sign, awning, or marquee shall be so erected, hung, or attached as to obstruct any window, door, fire escape, balcony, platform, stairway, ladder, stack, vent pipe, or ingress or egress to or from any building, nor so as to hinder the placing of ladders against the building by the Fire Department, nor within five feet of the adjoining property if the projection is a marquee or a sign projecting more than one foot from the property line. ('87 Code, § 98.34) (Ord. passed 12-2-74) Penalty, see § 10.99

§ 91.60 INSPECTIONS.

It shall be the duty of the Building Inspector to inspect at regular intervals every sign, awning, and marquee which extends over any sidewalk, street, public alley, or public way or place in the town. If any awning, sign, or marquee is found to be insecurely fastened or otherwise dangerous or has not been properly maintained or in any way conflicts with the provisions of this subchapter, he or she shall report his or her findings and recommendations to the owner of the sign, marquee, or awning or to the occupant of the premises to which the sign or marquee is attached. The dangerous condition as may be found and reported shall be removed by appropriate action by the property owner, occupant, or person responsible therefor within ten days from the date of notification.

('87 Code, § 98.35) (Ord. passed 12-2-74) Penalty, see § 10.99

§ 91.61 EXISTING SIGNS, AWNINGS, OR MARQUEES.

This subchapter shall not require the renewal of signs, awnings, or marquees which are in a safe condition and which are existing at the time of adoption of this subchapter, but no new signs, awnings, or marquees shall be placed or erected, and no existing sign or marquee shall be altered, remodeled, or relocated unless a permit therefor is obtained and all requirements of this subchapter are met; provided, one sign not to exceed three square feet in area may be permitted for each parcel of property without payment of the license fee and without the bond otherwise required, but a permit shall be required. ('87 Code, § 98.36) (Ord. passed 12-2-74) Penalty, see § 10.99

CHAPTER 92: PARADES, PICKET LINES, AND GROUP DEMONSTRATIONS

Section

- 92.01 Definitions
- 92.02 Permit required
- 92.03 Issuance of permit
- 92.04 Rights of appeal upon denial of permit application; alternative permit
- 92.05 Regulations concerning parades, picket lines, and group demonstrations
- 92.06 Regulations concerning public meetings, speeches, and gatherings
- 92.07 Revocation of permit
- 92.08 Exceptions

§ 92.01 DEFINITIONS.

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

PARADE. Any parade, march, ceremony, show, exhibition, or procession of any kind in or upon the public streets, sidewalks, parks, or other public places.

PICKET LINE. Any persons formed together for the purpose of making known any position or promotion of the persons or on behalf of any organization.

GROUP DEMONSTRATION. Any assembling together or concert of action between two or more persons for the purpose of protesting any matter or making known any position or thought of the group or of attracting attention to the demonstration.

(‘87 Code, § 96.01) (Ord. passed 12-2-74)

§ 92.02 PERMIT REQUIRED.

No parade, picket line, or group demonstration is permitted on the sidewalks or streets of the town unless a permit therefor has been issued by the town. However, nothing herein shall be construed to prevent the peaceful assembly of any group for orderly expression or communication between those assembled.

(‘87 Code, § 96.02) (Ord. passed 12-2-74) Penalty, see § 10.99

§ 92.03 ISSUANCE OF PERMIT.

(A) The Chief of Police or other designated town official is authorized to issue permits as required in § 92.02 and in the issuance thereof shall:

(1) Require a written application therefor to be filed not less than three days nor more than ten days in advance of the parade, picket line, or group demonstration on a form prescribed by the Police Department and which shall require the application to be signed by the person or persons filing the application. The applicant shall therein state the proposed site, time, purpose, and size of the parade, picket line, or group demonstration and whether or not any minors below the age of 18 years shall participate.

(2) Refuse to issue the permit when the activity or purpose stated in the application would violate any ordinance of the town, statute of the state, or when the activity or purpose would endanger the public health or safety or hinder or prevent the orderly movement of pedestrian or vehicular traffic on the sidewalks or streets of the town.

(3) Specify in the permit whether or not minors below the age of 18 years will be permitted to participate. The Chief of Police or other designated town official shall pass upon whether or not minors below the age of 18 years shall be permitted to participate in the parade, picket line, or group demonstration and shall base this determination upon whether or not the purpose, time, or place of the participation will be detrimental to or endanger the health, welfare, or safety of the minors.

(B) The permit may set the starting time and duration of the parade, demonstration, or picket line and may set the speed of its travel; the space between persons or vehicles; the portions or areas of the streets and sidewalks to be used; the length of the parade, group, or line; and such other requirements as the Chief of Police or other designated officer may include in the permit for the control of free movement of traffic upon the streets and sidewalks or for the health, safety, and property rights of the participants and general public. Failure to comply with these requirements, as set forth in the permit, shall be unlawful.

(C) The applicant for a permit shall specify and the permit shall designate the person in charge of the parade, group demonstration, or picket line, and the person in charge shall accompany the parade, demonstration, or picket line and shall carry the permit with him or her at that time.

(D) The Chief of Police or other designated official in considering the issuance of a permit shall, among other considerations provided, consider and find as a requisite for issuance that:

(1) The activity will not require excessive diversion of police from other necessary duties.

(2) The activity will not interfere with the right of property owners in the area to enjoy peaceful occupancy and use of their property.

(3) The activity can be conducted without unreasonable interference with normal vehicular or pedestrian traffic in the area, will not prevent normal police or fire protection to the public, and will not be likely to cause injury to persons or property, provoke disorderly conduct, or create a public disturbance.

(E) Any picket line or group demonstration which participates in any area subject to normally heavy pedestrian or vehicular traffic may be limited in the permit issued to a concentration of not more than six persons participating within any designated area of the street or sidewalk; however, the officer issuing the permit may specify a larger number in the designated area where, in his or her judgment, conditions permit a higher concentration. A designated area is defined as the entire width of the street or sidewalk within a distance measured along its length for 100 feet.

('87 Code, § 96.03) (Ord. passed 12-2-74)

§ 92.04 RIGHTS OF APPEAL UPON DENIAL OF PERMIT APPLICATION; ALTERNATIVE PERMIT.

(A) *Notice of rejection.* The Chief of Police shall act upon the application for a parade permit within two days after the filing thereof. If the Chief of Police disapproves the application, he or she shall notify the applicant within two days after the date upon which the application was filed of his or her action, stating the reason for his or her denial of the permit.

(B) *Appeal procedure.* Any person aggrieved shall have the right to appeal the denial of a parade permit to the Town Council. The appeal shall be taken within five days after notice. The Town Council shall act upon the appeal within five days after its receipt.

(C) *Alternative permit.* The Chief of Police, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within five days after notice of the action of the Chief of Police, file a written notice of acceptance with the Chief of Police. An alternate parade permit shall conform to the requirements of and shall have the effect of a parade permit under the provisions of this chapter.

('87 Code, § 96.04)

§ 92.05 REGULATIONS CONCERNING PARADES, PICKET LINES, AND GROUP DEMONSTRATIONS.

(A) In any parade, picket line, or group demonstration, it shall be unlawful:

(1) For any minor below the age of 18 years to participate or be allowed to participate, and any person encouraging, leading, or allowing a minor to participate, unless a permit therefor has been issued, shall be guilty of a violation of this section.

(2) For any person to lead, guide, participate in, or in any way support or encourage a parade, picket line, or group demonstration when a minor below the age of 18 years is participating therein, unless a permit for the participation by the minor has been issued.

(3) For any parent to knowingly permit any child under 18 years of age to participate in a parade, picket line, or group demonstration, unless a permit for participation by a minor has been issued.

(4) To cause, participate in, lead, or encourage any parade, picket line, or group demonstration to deviate in any manner from the authority therefor specified in the permit.

(B) No person shall hamper, obstruct, impede, or interfere with such activity or any person participating therein. The police force is authorized to establish lines for the separation of the general public from such activity, and it shall be unlawful to violate the provision of this division or cross these lines.

(C) No parade, picket line, or group demonstration is permitted within any public building or structure.

('87 Code, § 96.05) (Ord. passed 12-2-74) Penalty, see § 10.99

§ 92.06 REGULATIONS CONCERNING PUBLIC MEETINGS, SPEECHES, AND GATHERINGS.

(A) No person, firm, or corporation shall obstruct or block any street or sidewalk in the town.

(B) Any public meeting, speech, or gathering shall be conducted only on a sidewalk and at a minimum of 50 feet from any street corner.

(C) The speaker shall not interfere or permit members of the gathering to interfere with the orderly movement of vehicular and pedestrian traffic on the streets or sidewalks of the town. The speaker shall not become so loud in his or her speech nor violent in his or her movements as to annoy or frighten persons using the streets, sidewalks, or adjacent properties.

(D) The speaker shall not conduct any public meeting or deliver an address except during the hours set forth in the specific permit.

('87 Code, § 96.06) (Ord. passed 12-2-74) Penalty, see § 10.99

§ 92.07 REVOCATION OF PERMIT.

Upon violation of the terms of the permit by those participating, the Chief of Police or that officer of the police force as may then be in charge is authorized to then revoke the permit and direct those participating to disperse.

('87 Code, § 96.07) (Ord. passed 12-2-74) Penalty, see § 10.99

§ 92.08 EXCEPTIONS.

This chapter shall not apply to:

(A) Funeral processions.

(B) Students going to and from school classes or participating in educational activities where the activity is under the immediate supervision and direction of proper school authorities.

(C) A governmental agency acting within the scope of its functions.
(‘87 Code, § 96.08) (Ord. passed 12-2-74)

CHAPTER 93: EXPLOSIVES

Section

General Provisions

- 93.01 Application of charter; exemptions
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- 93.03 Permit required
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Explosives

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Blasting Agents

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Ammunition

- 93.50 Ammunition, primers, and smokeless propellants
- Appendix A: Explosives - distance in feet when storage is barricaded
- Appendix B: Table of recommended separation distances of ammonium nitrate and blasting agents from explosives or blasting agents

Statutory reference:

Authority to regulate, see G.S. § 160A-183

GENERAL PROVISIONS**§ 93.01 APPLICATION OF CHARTER; EXEMPTIONS.**

(A) This chapter shall apply to the manufacture, possession, storage, sale, transportation, and use of explosives, blasting agents, pyrotechnics, and ammunition except as provided in division (B) of this section.

(B) Nothing in this chapter shall be construed as applying to:

(1) The Armed Forces of the United States or the state militia.

(2) Explosives in forms prescribed by the official United States pharmacopoeia.

(3) The sale or use of fireworks.

(4) The possession, transportation, and use of small arms ammunition or special industrial explosive devices for personal use.

(5) The possession, storage, transportation, and use of not more than 20 pounds of smokeless propellant and 10,000 small arms primers for hand loading of small arms ammunition for personal use.

(6) The manufacture, possession, storage, and use of not more than 15 pounds of explosives or blasting agents exclusive of smokeless propellants in educational, governmental, or industrial laboratories for instruction or research purposes when under the direct supervision of experienced, competent persons.

(7) The transportation and use of explosives or blasting agents by the United States Bureau of Mines, the Federal Bureau of Investigation, the United States Secret Service, or Police and Fire Departments acting in their official capacity.

('87 Code, § 93.01) (Ord. passed 7-13-81)

§ 93.02 DEFINITIONS.

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

BLASTING AGENT. Any material or mixture consisting of a fuel and oxidizer intended for blasting and not otherwise classified as an explosive, in which none of the ingredients are classified as explosives, provided the finished product, as mixed and packaged for use or shipment, cannot be

detonated by means of a No. 8 test blasting cap when unconfined. Water gels complying with § 93.39(D) shall be classified as **BLASTING AGENTS**. Materials or mixtures classified as nitro-carbonitrates by United States Department of Transportation (DOT) regulations shall be included in this definition.

CARRIER. Persons who engage in the transportation of articles or materials by rail, highway, water, or air.

EXPLOSIVE. Any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. The term **EXPLOSIVE** includes all materials classified as class A, class B, or class C explosives by United States Department of Transportation (DOT) regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse igniters, fuse lighters, squibs, cordeau detonant fuse, instantaneous fuse, igniter cord and igniters, small arms ammunition, small arms ammunition primers, smokeless propellant, cartridges for propellant-actuated power devices, cartridges for industrial guns, pyrotechnics, and water gels complying with § 93.24(B) and (C).

EXPLOSIVE-ACTUATED POWER DEVICE. Any tool or special mechanized device which is actuated by explosives, but not including propellant-actuated power devices. Examples of **EXPLOSIVE-ACTUATED POWER DEVICES** are jet tappers and jet perforators.

EXPLOSIVE MATERIAL. Any quantity of class A, class B, or class C explosives and any other chemical compounds or mixtures thereof used as the propelling or exploding material in any cartridge or other explosive device.

HIGHWAY. Any public street, alley, or road.

INHABITED BUILDING. A building or structure regularly used in whole or in part as a place of human habitation. The term **INHABITED BUILDING** shall also mean any church, school, store, railway passenger station, airport terminal for passengers, and any other building or structure where people are accustomed to congregate or assemble, but excluding any building or structure occupied in connection with the manufacture, transportation, storage, and use of explosives and blasting agents.

MAGAZINE. Any building or structure approved for the storage of explosives.

PROPELLANT-ACTUATED POWER DEVICE. Any tool or special mechanized device or gas generator system which is actuated by a smokeless propellant or which releases and directs work through a smokeless propellant charge.

PUBLIC CONVEYANCE. Any railway car, streetcar, cab, bus, airplane, or other vehicle transporting passengers for hire.

PYROTECHNIC. Any special fireworks not included in Article 13 of the County Fire Prevention Code which are manufactured and designed primarily for producing visible and audible pyrotechnic effects by a combustible explosion and which are of such composition so as to be included under class B explosives as defined by regulations of the United States Department of Transportation.

RAILWAY. Any steam, electric, or other railroad or railway which carries passengers for hire.

SMALL ARMS AMMUNITION. Any shotgun, rifle, pistol, or revolver cartridge and cartridges for propellant-actuated power devices and industrial guns.

SMALL ARMS AMMUNITION PRIMER. A small percussion-sensitive explosive charge encased in a cap used to ignite propellant powder.

SMOKELESS PROPELLANT. Solid propellants, commonly called smokeless powders in the trade, used in small arms ammunition, cannons, rockets, or propellant-actuated power devices.

SPECIAL INDUSTRIAL EXPLOSIVE DEVICE. Any explosive-actuated power devices and propellant-actuated power devices.

SPECIAL INDUSTRIAL EXPLOSIVE MATERIAL. Shaped materials and sheet forms and various other extrusions, pellets, and packages of high explosives containing dynamite, trinitrotoluol, pentaerythritoltetranitrate, cyclotrimethylenetrinitramine, or other similar compounds used for high-energy rate forming, expanding, and shaping in metal fabrication and for dismemberment and quick reduction of scrap metal.

TERMINAL. Those facilities used by carriers for the receipt, transfer, temporary storage, or delivery of articles or materials.

TEST BLASTING CAP NO. 8. One containing two grams of a mixture of 80% mercury fulminate and 20% potassium chlorate or a cap of equivalent strength.

VEHICLE. A conveyance of any type operated upon the highways.

WATER GELS or SLURRY EXPLOSIVES. See § 93.24(B), (C), and (D).
(‘87 Code, § 93.02) (Ord. passed 7-13-81)

§ 93.03 PERMIT REQUIRED.

(A) Permits shall be obtained:

(1) To manufacture, possess, store, sell, or otherwise dispose of explosives, blasting agents, or small arms ammunition.

(2) To transport explosives or blasting agents.

(3) To use explosives or blasting agents.

(4) To operate a terminal for handling explosives or blasting agents.

(5) To deliver to or receive explosives or blasting agents from a carrier at a terminal between the hours of sunset and sunrise.

(6) To transport blasting caps or electric blasting caps on the same vehicle with explosives.

(B) Permits required by division (A) shall not be issued for:

(1) Liquid nitroglycerin.

(2) Dynamite, except gelatin dynamite, containing over 60% of liquid explosive ingredient.

(3) Dynamite having an unsatisfactory absorbent or one that permits leakage of a liquid explosive ingredient under any conditions liable to exist during storage.

(4) Nitrocellulose in a dry and uncompressed condition in a quantity greater than ten pounds net weight in one package.

(5) Fulminate of mercury in a dry condition and fulminate of all other metals in any condition, except as a component of manufactured articles not hereinafter forbidden.

(6) Explosive compositions that ignite spontaneously or undergo marked decomposition, rendering the products or their use more hazardous, when subjected to 48 consecutive hours or less at a temperature of 167°F.

(7) New explosives until approved by the United States Department of Transportation, except that permits may be issued to educational, governmental, or industrial laboratories for instructional or research purposes.

(8) Explosives condemned by the United States Department of Transportation.

(9) Explosives not packed or marked in accordance with the requirements of the United States Department of Transportation.

(10) Explosives containing an ammonium salt and a chlorate.

(‘87 Code, § 93.03) (Ord. passed 7-13-81) Penalty, see § 10.99

§ 93.04 BOND REQUIRED FOR BLASTING.

Before a permit to do blasting as required under § 93.03(A)(3) shall be issued, the applicant for the permit shall file a bond deemed adequate in each case by the County Bureau of Fire Prevention, which bond shall become available for the payment of any damages arising from the permitted blasting. ('87 Code, § 93.04) (Ord. passed 7-13-81) Penalty, see § 10.99

EXPLOSIVES**§ 93.15 GENERAL REGULATION OF EXPLOSIVES.**

(A) The manufacture of any explosives, blasting agents (including small arms ammunition), and pyrotechnics, as defined in § 93.02, shall be prohibited unless the manufacture is authorized by the Chief of the County Bureau of Fire Prevention. This shall not apply to hand loading of small arms ammunition prepared for personal use when not for resale.

(B) The storage of explosives and blasting agents is prohibited within the limits established by law as the limits of the district in which the storage is to be prohibited except for temporary storage for use in connection with approved blasting operation. However, this prohibition shall not apply to wholesale and retail stocks of small arms ammunition, fuse lighters, fuse igniters, and safety fuses, not including cordeau detonant fuses, in quantities involving less than 500 pounds of explosive material; nor shall it apply to explosive-actuated power devices, when employed in construction operations in highly populated areas, in quantities involving less than 50 pounds of explosive material.

(C) The Chief of the County Bureau of Fire Prevention may limit the quantity of explosives, blasting agents, or ammunition to be permitted at any location.

(D) No person shall sell or display explosives or blasting agents on highways, sidewalks, public property, or in places of public assembly. ('87 Code, § 93.10) (Ord. passed 7-13-81) Penalty, see § 10.99

§ 93.16 STORAGE OF EXPLOSIVES.

(A) Explosives, including special industrial explosive materials and any newly developed and unclassified explosive, shall be stored in magazines which comply with this chapter. This shall not be construed as applying to wholesale and retail stocks of small arms ammunition, fuse lighters, fuse igniters, and safety fuses (not including cordeau detonant fuses) in quantities involving less than 500 pounds of explosive material; nor shall it apply to explosive-actuated power devices, when employed in construction operations in highly populated areas, in quantities involving less than 50 pounds of explosive material.

(B) Magazines shall be in the custody of a competent person at all times who shall be at least 21 years of age and who shall be held responsible for compliance with all safety precautions.

(C) Smoking, matches, open flames, spark-producing devices, and firearms, except firearms authorized for guards, shall be prohibited inside or within 50 feet of magazines. Combustible materials shall not be stored within 50 feet of magazines.

(D) The land surrounding magazines shall be kept clear of brush, dried grass, leaves, trash, and debris for a distance of at least 25 feet.

(E) Magazines shall be kept locked except when being inspected or when explosives are being placed therein or being removed therefrom.

(F) Magazines shall be kept clean, dry, and free of grit, paper, empty packages, and rubbish.

(G) Heating or interior lighting systems for magazines shall be reasonably safe to persons and property. Evidence that heating or interior lighting systems have been installed in accordance with the applicable standard specified for this division in Article 31 of the County Fire Prevention Code shall be evidence that the heating or interior lighting systems are reasonably safe to persons and property. Where permanent lighting is not required, electric safety flashlights or electric safety lanterns shall be used.

(H) Blasting caps, electric blasting caps, detonating primers, and primed cartridges shall not be stored in the same magazine with other explosives.

(I) Magazines shall be of two types, namely class I and class II.

(J) Class I magazines shall be used for the storage of explosives when quantities are in excess of 50 pounds of explosive material.

(K) Class I or class II magazines shall be used for the storage of explosives in quantities of 50 pounds or less of explosive material, except that a class II magazine may be used for temporary storage of a larger quantity of explosives at the site of blasting operations where the amount constitutes not more than one day's supply for use in current operations.

(1) Class I and class II magazines shall be located away from inhabited buildings, passenger railways, public highways, and other magazines in accordance with Appendix A, except as provided in division (M) of this section.

(M) The Chief of the County Bureau of Fire Prevention may authorize the storage of up to 50 pounds of explosives and 5,000 blasting caps in wholesale and retail hardware stores or other approved establishments. Explosives and blasting caps shall be stored in separate class II magazines at approved locations with the magazines located on a floor which has an exit at outside grade level. A distance of ten feet shall be maintained between the magazines. Their location shall not be changed without approval of the Bureau of Fire Prevention.

(N) At the site of blasting operations, a distance of at least 150 feet shall be maintained between class II magazines and the blast area when the quantity of explosives temporarily kept therein is in excess of 25 pounds, and at least 50 feet when the quantity of explosives is 25 pounds or less.

(O) Class I magazines shall be designed and constructed so as to be reasonably safe to persons and property. Evidence that class I magazines have been designed and constructed in accordance with the applicable standards specified for this division in Article 31 of the County Fire Prevention Code shall be evidence that such class I magazines are reasonably safe to persons and property.

(P) Class I magazines shall have openings only for ventilation and entrance except where heating systems or interior lighting systems are required.

(Q) Class II magazines shall be constructed of two-inch tongue and grooved hardwood covered on the outside with 0.0359-inch thickness sheet steel (number 18 manufacturers' standard gauge) or equivalent aluminum, or of all metal construction with sides, bottom, and cover of sheet metal lined with $\frac{3}{8}$ -inch plywood or the equivalent. Edges of metal covers shall overlap sides at least one inch. Class II magazines when located in wholesale and retail hardware stores or other approved establishments shall be mounted on casters or wheels to facilitate removal.

(R) Magazines for the storage of explosives shall be weather resistant and properly ventilated, and when used for storage of class A explosives other than black powder, blasting caps, and electric blasting caps, shall also be bullet resistant.

(S) Property upon which class I magazines are located shall be posted with signs reading "Explosives - Keep Off." These signs shall be located so as to minimize the possibility of a bullet traveling in the direction of the magazine if anyone shoots at the sign.

(T) Class II magazines shall be painted red and shall bear lettering in white on all sides and top at least three inches high, "Explosives - Keep Fire Away."

(U) Packages of explosives shall not be unpacked or repacked in a magazine, nor within 50 feet of a magazine.

(V) Magazines shall not be used for the storage of any metal tools or of any commodity except explosives, but this restriction shall not apply to the storage of blasting agents, blasting supplies, and oxidizers used in compounding blasting agents.

(W) When an explosive has deteriorated to an extent that it is in an unstable or dangerous condition or if nitroglycerin leaks from any explosive, then the person in possession of the explosive shall immediately report the fact to the Chief of the Bureau of Fire Prevention and upon his or her authorization shall proceed to destroy these explosives and clean floors stained with nitroglycerin in accordance with the instructions of the manufacturer. Only experienced persons shall do the work of destroying explosives.

(X) Packages of explosives shall be laid flat with top side up. Black powder when stored in magazines with other explosives shall be stored separately. Black powder stored in kegs shall be stored on ends, bungs down, or on side, seams down. Corresponding grades and brands shall be stored together in such a manner that brands and grade marks show. All stocks shall be stored so as to be easily counted and checked. Packages of explosives shall be piled in a stable manner. When any kind of explosive is removed from a magazine for use, the oldest explosive of that particular kind shall always be taken first.

(Y) When magazines need inside repairs, all explosives shall be removed therefrom and the floors cleaned. In making outside repairs, if there is a possibility of causing sparks or fire, the explosives shall be removed from the magazine. Explosives removed from the magazine under repair shall either be placed in another magazine or placed a safe distance from the magazine where they shall be properly guarded and protected until repairs have been completed, when they shall be returned to the magazine. ('87 Code, § 93.11) (Ord. passed 7-13-81) Penalty, see § 10.99

§ 93.17 TRANSPORTATION OF EXPLOSIVES.

(A) Explosives shall not be transported on public conveyances.

(B) Vehicles used for transporting explosives shall be strong enough to carry the load without difficulty and shall be in good mechanical condition. If vehicles do not have a closed body, the body shall be covered with a flameproof and moistureproof tarpaulin or other effective protection against moisture and sparks. The vehicles shall have tight floors, and exposed spark-producing metal on the inside of the body shall be covered with wood or other non-sparking material to prevent contact with packages of explosives. Packages of explosives shall not be loaded above the sides of open-body vehicles.

(C) Explosives may be loaded into and transported in a truck, truck with semitrailer, truck with full trailer, truck tractor with semitrailer, or truck tractor with semitrailer and full trailer. Explosives shall not be transported on any pole trailer.

(D) Each motor vehicle shall be provided with at least one portable fire extinguisher having at least a 10 B, C rating or when more than one is provided, each extinguisher shall have at least a 5 B, C rating.

(E) It shall be the duty of the person to whom a permit has been issued to transport explosives over the highways of the municipality to inspect daily those vehicles employed by him or her to determine that:

- (1) Fire extinguishers are filled and in operating condition.
- (2) Electric wires are insulated and securely fastened.
- (3) The motor, chassis, and body are reasonably clean and free of excessive grease and oil.

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- (4) The fuel tank and fuel line are securely fastened and are not leaking.
- (5) Brakes, lights, horn, windshield wipers, and steering mechanism are functioning properly.
- (6) Tires are properly inflated and free of defects.
- (7) The vehicle is in proper condition for transporting explosives.

(F) Spark-producing metals or spark-producing metal tools shall not be carried in the body of a vehicle transporting explosives.

(G) Only those dangerous articles authorized to be loaded with explosives by United States Department of Transportation regulations shall be carried in the body of a vehicle transporting explosives.

(H) No person shall smoke, carry matches or any other flame-producing device, or carry any firearms or loaded cartridges while in or near a vehicle transporting explosives or drive, load, or unload any such vehicle in a careless or reckless manner.

(I) Vehicles transporting explosives shall be in the custody of drivers who are physically fit, careful, capable, reliable, able to read and write the English language, not addicted to the use or under the influence of intoxicants or narcotics, and not less than 21 years of age. They shall be familiar with state and municipal traffic regulations and the provisions of this section governing the transportation of explosives.

(J) Every vehicle transporting explosives shall be marked or placarded on both sides, front, and rear with the word "Explosives" in letters not less than three inches high on a contrasting background.

(K) Blasting caps or electric blasting caps shall not be transported over the highways of the municipality on the same vehicle with other explosives, except by permission of the County Bureau of Fire Prevention.

(L) Vehicles transporting explosives and traveling in the same direction shall not be driven within 300 feet of each other.

(M) Vehicles transporting explosives shall avoid congested traffic and densely populated areas. Designated routes shall be followed.

(N) Explosives shall not be transported through any completed vehicular tunnel or subway.

(O) Vehicles transporting explosives shall not be left unattended at any time within the municipality.

(P) Unauthorized persons shall not ride on vehicles transporting explosives.

(Q) The Fire and Police Departments shall be promptly notified when a vehicle transporting explosives is involved in an accident, breaks down, or catches fire. Only in the event of such an emergency shall the transfer of explosives from one vehicle to another vehicle be allowed on highways within the town and only when qualified supervision is provided. Except in such an emergency, a vehicle transporting explosives shall not be parked before reaching its destination on highways within the town or adjacent to or in proximity to any bridge, tunnel, dwelling, building, or place where people work, congregate, or assemble.

(R) Delivery shall only be made to authorized persons and into approved magazines or approved temporary storage or handling areas.

(S) Vehicles containing explosives shall not be taken into a garage or repair shop for repairs or storage.

('87 Code, § 93.12) (Ord. passed 7-13-81) Penalty, see § 10.99

§ 93.18 USE, HANDLING OF EXPLOSIVES.

(A) Blasting operations shall be conducted during daylight hours except when authorized at other times by the Chief of the County Bureau of Fire Prevention.

(B) The handling and firing of explosives shall be performed by the person possessing a permit to use explosives or by employees under his or her direct supervision who are at least 21 years old.

(C) No person shall handle explosives while under the influence of intoxicants or narcotics.

(D) No person shall smoke or carry matches while handling explosives or while in the vicinity thereof.

(E) No open flame light shall be used in the vicinity of explosives.

(F) Whenever blasting is being conducted in the vicinity of gas, electric, water, fire alarm, telephone, telegraph, or steam utilities, the blaster shall notify the appropriate representatives of the utilities at least 24 hours in advance of blasting, specifying the location and intended time of the blasting. Verbal notice shall be confirmed with written notice. In an emergency, this time limit may be waived by the Chief of the County Bureau of Fire Prevention.

(G) Blasting operations shall be conducted so as to be reasonably safe to persons and property. Evidence that blasting operations have been conducted in accordance with the applicable standards specified for this division in Article 31 of the County Fire Prevention Code shall be evidence that the blasting operations are reasonably safe to persons and property.

(H) Before a blast is fired, the person in charge shall make certain that all surplus explosives are in a safe place, all persons and vehicles are at a safe distance or under sufficient cover, and a loud warning signal has been sounded.

(I) Due precautions shall be taken to prevent accidental discharge of electric blasting caps from current induced by radio or radar transmitters, lightning, adjacent power lines, dust storms, or other sources of extraneous electricity. These precautions shall include:

(1) The suspension of all blasting operations and removal of persons from the blasting area during the approach and progress of an electric storm.

(2) The posting of signs warning against the use of mobile radio transmitters on all roads within 350 feet of the blasting operations.

(3) Compliance with division (G) of this section when blasting within one and one-half miles of broadcast or high-power shortwave radio transmitters.

(J) When blasting is done in congested areas or in close proximity to a building, structure, railway, highway, or any other installation that may be damaged, the blast shall be covered before firing with a mat constructed so that it is capable of preventing rock from being thrown into the air.

(K) Tools used for opening packages of explosives shall be constructed of nonsparking materials.

(1) Empty boxes, paper, and fiber packing materials which have previously contained high explosives shall not be used again for any purpose, but shall be destroyed by burning at an approved isolated location out of doors, and no person shall be nearer than 100 feet after the burning has started.

(M) Explosives shall not be abandoned.

('87 Code, § 93.13) (Ord. passed 7-13-81) Penalty, see § 10.99

§ 93.19 EXPLOSIVES AT TERMINALS.

(A) The County Bureau of Fire Prevention may designate the location and specify the maximum quantity of explosives or blasting agents which may be loaded, unloaded, reloaded, or temporarily retained at each terminal where such operations are permitted.

(B) Shipments of explosives or blasting agents delivered to carriers shall comply with United States Department of Transportation regulations.

(C) Carriers shall immediately notify the County Bureau of Fire Prevention when explosives or blasting agents are received at terminals.

(D) Carriers shall immediately notify consignees of the arrival of explosives or blasting agents at terminals.

(E) The consignee of a shipment of explosives or blasting agents shall remove them from the carrier's terminal within 48 hours, Sundays and holidays excluded, after being notified of their arrival. ('87 Code, § 93.14) (Ord. passed 7-13-81) Penalty, see § 10.99

BLASTING AGENTS**§ 93.35 GENERAL REGULATION OF BLASTING AGENTS.**

Unless otherwise set forth in §§ 93.37 and 93.38, blasting agents, excluding water gels, shall be transported, stored, and used in the same manner as explosives.
(‘87 Code, § 93.20) (Ord. passed 7-13-81) Penalty, see § 10.99

§ 93.36 MIXING BLASTING AGENTS.

(A) Buildings or other facilities used for mixing blasting agents shall be located away from inhabited buildings, passenger railways, and public highways in accordance with Appendix A and Appendix B.

(B) Buildings or other facilities used for the mixing of blasting agents shall be designed and constructed so as to be reasonably safe to persons and property. Evidence that buildings or other facilities used for the mixing of blasting agents have been designed and constructed in accordance with the applicable standard specified for this division in Article 31 of the County Fire Prevention Code shall be evidence that these buildings or other facilities are reasonably safe to persons and property.

(C) Compounding and mixing of recognized formulations of blasting agents shall be conducted to provide reasonable safety to persons and property. Evidence that compounding and mixing of recognized formulations of blasting agents have been conducted in accordance with the applicable standards specified for this division in Article 31 of the County Fire Prevention Code shall be evidence that the compounding and mixing are reasonably safe to persons and property. No liquid hydrocarbon fuel with a flash point lower than that of No. 2 diesel fuel oil (125°F minimum or legal) shall be used.

(D) Smoking or open flames shall not be permitted in or within 50 feet of any building or facility used for the mixing of blasting agents.

(E) Empty oxidizer bags shall be disposed of daily by burning in a safe manner in the open at a safe distance from buildings or combustible materials.

(‘87 Code, § 93.21) (Ord. passed 7-13-81) Penalty, see § 10.99

§ 93.37 STORAGE OF BLASTING AGENTS, SUPPLIES.

(A) Blasting agents or ammonium nitrate, when stored in conjunction with explosives, shall be stored in the manner set forth in § 93.16 for explosives. The mass of blasting agents and one-half the mass of ammonium nitrate shall be included when computing the total quantity of explosives for determining distance requirements.

(B) Blasting agents, when stored entirely separate from explosives, may be stored:

(1) As provided in § 93.16, or

(2) In one-story warehouses of fire-resistive or noncombustible construction without basements, constructed so as to eliminate open floor drains and piping into which molten materials could flow and be confined in case of fire, weather-resistant, well ventilated, and equipped with a strong door kept securely locked except when open for business.

(C) Buildings used for the storage of blasting agents separate from explosives shall be located away from inhabited buildings, passenger railways, and public highways in accordance with Appendix A and Appendix B.

(D) The interior of buildings used for the storage of blasting agents shall be kept clean and free from debris and empty containers. Spilled materials shall be cleaned up promptly and safely removed. Combustible materials, flammable liquids, corrosive acids, chlorates, and nitrates other than ammonium nitrate shall not be stored in any building containing blasting agents unless separated therefrom by construction having a fire-resistance rating of not less than one hour. The provisions of this section shall not prohibit the storage of blasting agents together with nonexplosive blasting supplies.

(E) Semitrailers or full trailers may be used for temporarily storing blasting agents, provided they are located away from inhabited buildings, passenger railways, and public highways in accordance with Appendix A and Appendix B. Trailers shall be provided with substantial means for locking, and the trailer doors shall be kept locked except during the time of placement or removal of blasting agents.

(F) Piles of ammonium nitrate and buildings containing oxidizers shall be adequately separated from readily combustible fuels.

(G) Caked ammonium nitrate, either in bags or in bulk, shall not be loosened by blasting.
(‘87 Code, § 93.22) (Ord. passed 7-13-81) Penalty, see § 10.99

§ 93.38 TRANSPORTATION OF BLASTING AGENTS.

(A) When blasting agents are transported in the same vehicle with explosives, § 93.17 shall apply.

(B) Vehicles transporting blasting agents shall be in safe operating condition at all times.

(C) Every vehicle transporting blasting agents shall be marked or placarded on both sides, front, and rear, with the words “Dangerous” and also the words “Blasting Agents” in letters not less than three inches high on a contrasting background.

(D) The hauling of either blasting caps or explosives, but not both, shall be permitted on bulk trucks provided a special wood or nonferrous-lined container is installed for the explosive. Blasting caps or explosives shall be in shipping containers specified in regulations of the United States Department of Transportation.

(E) A bulk vehicle body shall be constructed of noncombustible material and vehicles transporting bulk premixed blasting agents shall have closed bodies. No in-transit mixing of materials shall be performed.

('87 Code, § 93.23) (Ord. passed 7-13-81) Penalty, see § 10.99

§ 93.39 WATER GEL EXPLOSIVES AND BLASTING AGENTS.

(A) Unless otherwise set forth in this section, water gels shall be transported, stored, and used in the same manner as explosives or blasting agents in accordance with the classification of the product.

(B) Water gels containing a substance in itself classified as an explosive shall be classified as an explosive and manufactured, transported, stored, and used as specified for explosives in this chapter.

(C) Water gels containing no substance in itself classified as an explosive and which are cap-sensitive as defined in § 93.02 shall be classified as an explosive and manufactured, transported, stored, and used as specified for explosives in this chapter.

(D) Water gels containing no substance in itself classified as an explosive and which are not cap-sensitive as defined in § 93.02 under blasting agent shall be classified as blasting agents and manufactured, transported, stored, and used as specified for blasting agents in this chapter.

(E) Nitrate-water solutions may be stored in tank cars, tank trucks, or fixed tanks without quantity or distance limitations. Spills or leaks which may contaminate combustible materials shall be cleaned up immediately.

(F) All facilities, mixing equipment, and delivery vehicles used for the handling of water gels shall be designed and operated so as to be reasonably safe to persons and property. Evidence that the facilities, mixing equipment, and delivery vehicles are designed and operated in accordance with the applicable standards specified for this division in Article 31 of the County Fire Prevention Code shall be evidence that the facilities, mixing equipment, and delivery vehicles are reasonably safe to persons and property.

('87 Code, § 93.24) (Ord. passed 7-13-81) Penalty, see § 10.99

AMMUNITION

§ 93.50 AMMUNITION, PRIMERS, AND SMOKELESS PROPELLANTS.

(A) The storage and display of ammunition, primers, and propellants shall comply with this section and the applicable provisions of §§ 93.15(B) and 93.16(A).

(B) Ammunition, primers, and propellants shall be separated from flammable liquids, hazardous material not classified as an explosive, and oxidizing materials by a wall having a fire-resistance rating of one hour.

(C) Not more than 20 pounds of smokeless propellants in containers of one-pound maximum capacity and not more than 10,000 small arms ammunition primers shall be displayed in wholesale and retail hardware stores or other approved establishments.

('87 Code, § 93.30) (Ord. passed 7-13-81) Penalty, see § 10.99

APPENDIX A: EXPLOSIVES - DISTANCE IN FEET WHEN STORAGE IS BARRICADED

(A) *Definitions.* For the purpose of this appendix the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ARTIFICIAL BARRICADE. An artificial mound or revetted wall of earth of a minimum thickness of three feet.

BARRICADED. A building containing explosives is effectually screened from a magazine, building, railway, or highway, either by a natural barricade or by an artificial barricade of such height that a straight line from the top of any sidewall of the building containing explosives to the eave line of any magazine, or building, or to a point 12 feet above the center of a railway or highway will pass through such intervening natural or artificial barricade.

NATURAL BARRICADE. Natural features of the ground, such as hills or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the magazine when the trees are bare of leaves.

(B) *Schedule of required distances.*

Explosives - Distance in Feet When Storage is Barricaded

<i>Pounds Over</i>	<i>Pounds Not Over</i>	<i>From Inhabited Buildings</i>	<i>From Passenger Railways</i>	<i>From Public Highways</i>	<i>Separation of Magazines</i>
2	5	70	30	30	6
5	10	90	35	35	8
10	20	110	45	45	10
20	30	125	50	50	11
30	40	140	55	55	12
40	50	150	60	60	14
50	75	170	70	70	15
75	100	190	75	75	16
100	125	200	80	80	18
125	150	215	85	85	19
150	200	235	95	95	21

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<i>Pounds Over</i>	<i>Pounds Not Over</i>	<i>From Inhabited Buildings</i>	<i>From Passenger Railways</i>	<i>From Public Highways</i>	<i>Separation of Magazines</i>
200	250	255	105	105	23
250	300	270	110	110	24
300	400	295	120	120	27
400	500	320	130	130	29
500	600	340	135	135	31
600	700	355	145	145	32
700	800	375	150	150	33
800	900	390	155	155	35
900	1000	400	160	160	36
1,000	1,200	425	170	165	39
1,200	1,400	450	180	170	41
1,400	1,600	470	190	175	43
1,600	1,800	490	195	180	44
1,800	2,000	505	205	185	45
2,000	2,500	545	220	190	49
2,500	3,000	580	235	195	52
3,000	4,000	635	255	210	58
4,000	5,000	685	275	225	61
5,000	6,000	730	295	235	65
6,000	7,000	770	310	245	68
7,000	8,000	800	320	250	72
8,000	9,000	835	335	255	75
9,000	10,000	865	345	260	78
10,000	12,000	875	370	270	82
12,000	14,000	885	390	275	87
14,000	16,000	900	405	280	90

<i>Pounds Over</i>	<i>Pounds Not Over</i>	<i>From Inhabited Buildings</i>	<i>From Passenger Railways</i>	<i>From Public Highways</i>	<i>Separation of Magazines</i>
16,000	18,000	940	420	285	94
18,000	20,000	975	435	290	98
20,000	25,000	1055	470	315	105
25,000	30,000	1,130	500	340	112
30,000	35,000	1,205	525	360	119
35,000	40,000	1,275	550	380	124
40,000	45,000	1,340	570	400	129
45,000	50,000	1,400	590	420	135
50,000	55,000	1,460	610	440	140
55,000	60,000	1,515	630	455	145
60,000	65,000	1,565	645	470	150
65,000	70,000	1,610	660	485	155
70,000	75,000	1,655	675	500	160
75,000	80,000	1,695	690	510	165
80,000	85,000	1,730	705	520	170
85,000	90,000	1,760	720	530	175
90,000	95,000	1,790	730	540	180
95,000	100,000	1,815	745	545	185
100,000	110,000	1,835	770	550	195
110,000	120,000	1,855	790	555	205
120,000	160,000	1,875	810	560	215
130,000	140,000	1,890	835	565	225
140,000	150,000	1,000	850	570	235
150,000	160,000	1,935	870	580	245
160,000	170,000	1,965	890	590	255
170,000	180,000	1,990	905	600	265

<i>Pounds Over</i>	<i>Pounds Not Over</i>	<i>From Inhabited Buildings</i>	<i>From Passenger Railways</i>	<i>From Public Highways</i>	<i>Separation of Magazines</i>
180,000	190,000	2,010	920	605	275
190,000	200,000	2,030	935	610	285
200,000	210,000	2,055	955	620	295
210,000	230,000	2,100	980	635	315
230,000	250,000	2,155	1,010	650	335
250,000	275,000	2,215	1,040	670	360
275,000	300,000	2,275	1,075	690	385

(C) All types of blasting caps in strengths through No. 8 shall be rated at one and one-half pounds of explosives per 1000 caps.

(D) When a building containing explosives is not barricaded, the distances shown in division (B) of this section shall be doubled.

(E) When two or more storage magazines are located on the same property, each magazine shall comply with minimum distances specified from inhabited buildings, railways, and highways, and in addition they shall be separated from each other by not less than the distances shown for separation of magazines in division (B) of this section, except that the quantity of explosives contained in cap magazines shall govern in regard to the spacing of cap magazines from magazines containing other explosives. If any two or more magazines are separated from each other by less than the specified separation of magazines distances, then the two or more magazines, as a group, shall be considered as one magazine, and the total quantity of explosives stored in the group must be treated as if stored in a single magazine located on the site of any magazine of the group and shall comply with the distances specified from other magazines, inhabited buildings, railways, and highways.

(F) Division (B) of this section applies only to the manufacture and permanent storage of commercial explosives. It is not applicable to transportation of explosives or any handling of temporary storage necessary or incident thereto. It is not intended to apply to bombs, projectiles, or other heavily encased explosives.

('87 Code, Appendix A) (Ord. passed 7-13-81) Penalty, see § 10.99

**APPENDIX B: TABLE OF RECOMMENDED SEPARATION DISTANCES
OF AMMONIUM NITRATE AND BLASTING AGENTS FROM
EXPLOSIVES OR BLASTING AGENTS**

(A) The table is set forth as follows:

<i>Donor Weight</i>		<i>Minimum Separation Distance of Receptor When Barricaded (Feet)</i>		<i>Minimum Thickness of Artificial Barricades (Inches)</i>
<i>Pounds Over</i>	<i>Pounds Not Over</i>	<i>Ammonium Nitrate</i>	<i>Blasting Agent</i>	
—	100	3	11	12
100	300	4	14	12
300	600	5	18	12
600	1,000	6	22	12
1,000	1,600	7	25	12
1,600	2,000	8	29	12
2,000	3,000	9	32	15
3,000	4,000	10	36	15
4,000	6,000	11	40	15
6,000	8,000	12	43	20
8,000	10,000	13	47	20
10,000	12,000	14	50	20
12,000	16,000	15	54	25
16,000	20,000	16	58	25
20,000	25,000	18	65	25
25,000	30,000	19	68	30
30,000	35,000	20	72	30
35,000	40,000	21	76	30
40,000	45,000	22	79	35
45,000	50,000	23	83	35

<i>Donor Weight</i>		<i>Minimum Separation Distance of Receptor When Barricaded (Feet)</i>		<i>Minimum Thickness of Artificial Barricades (Inches)</i>
<i>Pounds Over</i>	<i>Pounds Not Over</i>	<i>Ammonium Nitrate</i>	<i>Blasting Agent</i>	
50,000	55,000	24	86	35
55,000	60,000	25	90	35
60,000	70,000	26	94	40
70,000	80,000	28	101	40
80,000	90,000	30	108	40
90,000	100,000	32	115	40
100,000	120,000	34	122	50
120,000	140,000	37	133	50
140,000	160,000	40	144	50
160,000	180,000	44	158	50
180,000	200,000	48	173	50
200,000	220,000	52	187	60
220,000	250,000	56	202	60
250,000	275,000	60	215	60
275,000	300,000	64	230	60

(B) Recommended separation distances to prevent explosion of ammonium nitrate and ammonium nitrate-based blasting agents by propagation from nearby stores of high explosives and blasting agents referred to in division (A) of this section as the donor. Ammonium nitrate, by itself, is not considered to be a donor when applying division (A). Ammonium nitrate, ammonium-nitrate fuel oil, or combinations thereof are acceptors. If stores of ammonium nitrate are located within the sympathetic detonation distance of explosives or blasting agents, one-half the mass of the ammonium nitrate should be included in the mass of the donor.

(C) When the ammonium nitrate or blasting agent is not barricaded, the distances shown in division (A) of this section shall be multiplied by six. These distances allow for the possibility of high velocity metal fragments from mixers, hoppers, truck bodies, sheet metal structures, metal containers, and the like, which may enclose the donor. Where storage is in bullet-resistant magazines recommended for explosives or where the storage is protected by a bullet-resistant wall, distances and barricade thicknesses in excess of those prescribed in division (B) of Appendix A are not required.

(D) The distances in division (A) of this section apply to ammonium nitrate that passes the insensitivity test prescribed in the definition of ammonium nitrate fertilizer promulgated by the National Plant Food Institute (see Definition and Test Procedures for Ammonium Nitrate Fertilizer, National Plant Food Institute, November 1964), and ammonium nitrate failing to pass this test shall be stored at separation distances determined by competent persons and approved by the authority having jurisdiction.

(E) The distances of division (A) of this section apply to nitrocarbonitrates and blasting agents which pass the insensitivity test prescribed in the United States Department of Transportation regulations.

(F) Earth or sand dikes or enclosures filled with the prescribed minimum thickness of earth or sand are acceptable artificial barricades. Natural barricades, such as hills or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the donor when the trees are bare of leaves, are also acceptable.

(G) When the ammonium nitrate must be counted in determining the distances to be maintained from inhabited buildings, passenger railways, and public highways, it may be counted at one-half its actual weight because its blast effect is lower.

('87 Code, Appendix B) (Ord. passed 7-13-81) Penalty, see § 10.99

CHAPTER 94: NUISANCES; HEALTH AND SANITATION

Section

General Provisions

- 94.01 Conditions constituting nuisance
- 94.02 Investigation; notice to abate
- 94.03 Abatement by town
- 94.04 Other remedies

Noxious Odors and Smoke

- 94.15 Excessive smoke, dust, noise prohibited
- 94.16 Abatement

Noise

- 94.30 Unnecessary noise prohibited
- 94.31 Prohibited acts enumerated

Scrap Materials

- 94.45 Declaration of policy
- 94.46 Accumulation of scrap materials

- 94.99 Penalty

Statutory reference:

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

GENERAL PROVISIONS

§ 94.01 CONDITIONS CONSTITUTING NUISANCE.

The existence of any of the following conditions on any vacant lot or other parcel of land within the corporate limits is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance.

(A) The uncontrolled growth of noxious weeds or grass to a height in excess of 18 inches causing or threatening to cause a hazard detrimental to the public health or safety.

(B) Any accumulation of rubbish, trash, or junk causing or threatening to cause a fire hazard, causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health.

(C) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health.

(D) Any condition detrimental to the public health which violates the rules and regulations of the County Health Department.

('87 Code, § 94.10) (Ord. passed 12-2-74; Am. Ord. passed 9-6-88) Penalty, see § 94.99

§ 94.02 INVESTIGATION; NOTICE TO ABATE.

(A) The Town Manager, upon notice from any person of the existence of any of the conditions described in § 94.01, shall cause to be made by the appropriate County Health Department official or town official such investigation as may be necessary to determine whether, in fact, those conditions exist.

(B) Upon a determination that conditions constituting a public nuisance exist, the Town Manager shall notify, in writing, the owner, occupant, or person in possession of the premises in question of the conditions constituting the public nuisance and shall order the prompt abatement thereof within 15 days from the receipt of the written notice.

('87 Code, § 94.11) (Ord. passed 12-2-74)

§ 94.03 ABATEMENT BY TOWN.

(A) If any person, having been ordered to abate a public nuisance, fails, neglects, or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of the order, the Town Manager shall cause the condition to be removed or otherwise remedied by having employees of the town go upon the premises and remove or otherwise abate the nuisance under the supervision of an officer or employee designated by the Town Manager. Any person who has been ordered to abate a public nuisance may, within the time allowed by this section, request the town in writing to remove the condition, the cost of which shall be paid by the person making the request.

(B) The actual cost incurred by the town in removing or otherwise remedying a public nuisance shall be charged to the owner of the lot or parcel of land, and it shall be the duty of the Town Manager to mail a statement of these charges to the owner or other person in possession of the premises with instructions that the charges are due and payable within 30 days from the receipt thereof.

(C) In the event charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges as provided for in division (B) of this section, the charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G.S. § 160A-193.

(‘87 Code, § 94.12) (Ord. passed 12-2-74)

§ 94.04 OTHER REMEDIES.

The procedure set forth in this subchapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances and this subchapter shall not prevent the town from proceeding in a criminal action against any person, firm, or corporation violating the provisions of this subchapter as provided in § 94.99

(‘87 Code, § 94.13) (Ord. passed 12-2-74)

NOXIOUS ODORS AND SMOKE

§ 94.15 EXCESSIVE SMOKE, DUST, NOISE PROHIBITED.

(A) No person, firm, or corporation shall operate or cause to be operated within the town, or within one mile outside the corporate limits, any business or other operation emitting excessive smoke, dust, or noise or create any condition causing offensive odors, so as to adversely affect the health of any of the citizens of the town.

(B) Each day of operation in violation of this section shall constitute a separate offense.

(‘87 Code, § 94.01) (Ord. passed 12-2-74) Penalty, see § 94.99

§ 94.16 ABATEMENT.

The Chief of Police is hereby designated as the officer responsible for removing, abating, and remedying any violation of § 94.15. The Chief of Police shall give personal notice to any violator stating that if the violation is not voluntarily removed, abated, or remedied within 24 hours after the notice, a warrant shall be issued against that person, firm, or corporation in violation thereof, in the same manner as described in §§ 94.03 and 94.04 of this chapter.

(‘87 Code, § 94.02) (Ord. passed 12-2-74)

NOISE**§ 94.30 UNNECESSARY NOISE PROHIBITED.**

Subject to the provisions of this subchapter, the creation of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of a character, intensity, and duration as to be detrimental to the life or health of any individual is prohibited.

('87 Code, § 95.01) (Ord. passed 12-2-74) Penalty, see § 94.99

§ 94.31 PROHIBITED ACTS ENUMERATED.

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

(A) 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 after or as brakes are being applied and deceleration of the vehicle is intended; or the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of the device for any unnecessary and unreasonable period of time.

(B) The use of any gong or siren upon any vehicle other than police, fire, or other emergency vehicles.

(C) Playing of any television, radio, phonograph, or musical instrument in a manner or with such volume, particularly during the 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.

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

(E) The use of any automobile, motorcycle, or other vehicle so out of repair, loaded, or modified in a manner as to create loud or unnecessary grating, grinding, rattling, or other noise.

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

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

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

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

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

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

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

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

(N) The shouting and crying of peddlers, barkers, hawkers, and vendors which disturb the quiet and peace of the neighborhood.

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

(P) The use of any mechanical loudspeaker or amplifier on trucks or other moving vehicles for advertising or other purposes, except where specific license is received from the Police Department.

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

(R) The firing or discharging of a gun, squibs, crackers, gunpowder, or other combustible substance in the streets or elsewhere, for the purpose of making a noise or disturbance, except by permit from the Police Department.

(S) The unnecessary spinning of the tires of a motor vehicle by its operator on the pavement of any public street, alley, or public parking lot resulting in a screeching noise.
(‘87 Code, § 95.02) (Ord. passed 12-2-74) Penalty, see § 10.99

SCRAP MATERIALS**§ 94.45 DECLARATION OF POLICY.**

(A) The Board hereby declares that the uncontrolled accumulation of scrap materials on any premises constitutes a danger to the health, safety, and welfare of the citizens of the town in that such accumulations can furnish shelter and breeding places for vermin, present physical dangers to the safety and well-being of children and other citizens, pose a danger of fire, and depreciate property values or cause a loss of business by detracting from the character of residential and commercial neighborhoods.

(B) For the purposes of this subchapter, scrap materials shall include, but not be limited to, nonoperable machines and parts, metals, wood, plastics, and all other materials and substances which may pose such threats or dangers as are herein sought to be abated.

(Ord. passed 9-1-89) Penalty, see § 94.99

§ 94.46 ACCUMULATION OF SCRAP MATERIALS.

No person may cause, suffer, or permit scrap materials to accumulate or remain on premises under his or her control unless the scrap materials are:

(A) Surrounded by a fence of sufficient height, strength, and construction to deny persons, especially small children, access to them and to shield neighboring properties from the view of them; or

(B) Are so stored within a structure or within a container outside of a structure as to minimize substantially the dangers set forth in § 94.45.

(Ord. passed 9-1-89) Penalty, see § 94.99

§ 94.99 PENALTY.

(A) Whoever shall violate any of the provisions of this chapter for which no specific penalty is provided shall be punished as set forth in § 10.99.

(B) (1) Any violation of the provisions of §§ 94.45 and 94.46 shall constitute a misdemeanor, punishable as provided in G.S. § 14-4.

(2) A violation of any of the provisions of §§ 94.45 and 94.46 shall subject the offender to a civil penalty of \$25. If the offender fails to pay this penalty within 15 calendar days after being cited by a designated official of the town for a violation, the penalty may be recovered by the town in a civil action in the nature of debt.

(3) Each day that any violation continues after a person has been notified that such violation exists and that he or she is subject to the penalties specified in this section shall constitute a separate offense.

(4) This subchapter may be enforced by any appropriate action for injunctions, orders of abatement, and by any other action which may be appropriate as designed by ordinance or other applicable law.

(5) The town may enforce §§ 94.45 and 94.46 by any one of or any combination of the foregoing remedies.
(Ord. passed 9-1-89)

CHAPTER 95: ABANDONED VEHICLES

Section

- 95.01 Definitions
- 95.02 Abandonment prohibited
- 95.03 Liability of other persons to owners
- 95.04 Removal of abandoned vehicle by town
- 95.05 Notice of removal; hearing procedure
- 95.06 Indemnification of town
- 95.07 Towing fees
- 95.08 Exemptions

Statutory reference:

Removal, disposal of junked and abandoned motor vehicles, see G.S. § 160A-303

§ 95.01 DEFINITIONS.

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

ABANDONED MOTOR VEHICLE. A motor vehicle that:

- (1) Has been left upon a street or highway in violation of a law, provision of this code, or other ordinance of the town prohibiting parking;
- (2) Is left on property owned or operated by the town for longer than 24 hours;
- (3) Is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours;
- (4) Is left on any public street or highway for longer than seven days;
- (5) Is left on any privately owned public vehicular area contrary to an ordinance adopted under authority of G.S. § 160A-301(d);
- (6) Is left on private property in a properly designated fire lane;

(7) Is left on public or private property in a space properly designated as reserved for the handicapped or visually impaired or in a manner that obstructs a curb cut or curb ramp for handicapped persons; or

(8) May for any other reason lawfully be towed by a law enforcement officer (except that vehicles seized for evidence or pursuant to a levy under execution or otherwise seized or forfeited under any state statute shall not be considered abandoned vehicles under this chapter).

JUNKED MOTOR VEHICLE. An abandoned motor vehicle that also:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which it was originally intended to move;
- (3) Is more than five years old and worth less than \$100; or
- (4) Does not display a current license plate.

MOTOR VEHICLE. All machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.
(‘87 Code, § 90.01) (Am. Ord. passed 9-6-88)

§ 95.02 ABANDONMENT PROHIBITED.

It shall be the duty and responsibility of the owner of any abandoned or junked motor vehicle to cause the removal thereof immediately and to pay all costs incident to the removal. It shall be unlawful for any person to allow a motor vehicle owned by him or her to remain after notice has been given to such person to have the vehicle removed.
(‘87 Code, § 90.02) Penalty, see § 10.99

§ 95.03 LIABILITY OF OTHER PERSONS TO OWNERS.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of any abandoned, lost, or stolen motor vehicle for disposing of the vehicle as provided in this chapter.
(G.S. § 160A-303(f)) (‘87 Code, § 90.03)

§ 95.04 REMOVAL OF ABANDONED VEHICLE BY TOWN.

Any junked or abandoned motor vehicle may be removed by the town to a storage garage or area. However, no such vehicle shall be removed from private property without the written request of the owner, lessee, or occupant of the premises, unless the town or a duly authorized town official or employee has declared that vehicle to be a health or safety hazard.
(G.S. § 160A-303(c)) ('87 Code, § 90.04)

§ 95.05 NOTICE OF REMOVAL; HEARING PROCEDURE.

(A) When any junked or abandoned motor vehicle is removed, the town shall give notice to the owner as required by G.S. § 20-219.11(a) and (b).
(G.S. § 160A-303(c))

(B) Regardless of whether a town does its own removal and disposal of motor vehicles or contracts with another person to do so, the town shall provide a hearing procedure for the owner. For purposes of this section, the definitions in G.S. § 20-219.9 apply.
(G.S. § 160A-303(d))
(‘87 Code, § 90.05)

§ 95.06 INDEMNIFICATION OF TOWN.

Any person requesting the removal of a junked or abandoned motor vehicle from private property shall indemnify the town against any loss, expense, or liability incurred because of the removal, storage, or sale of that vehicle.
(G.S. § 160A-303(c)) ('87 Code, § 90.06)

§ 95.07 TOWING FEES.

(A) If the town operates in such a way that the person who tows the vehicle is responsible for collecting towing fees, all provisions of G.S. Chapter 20, Article 7A apply.

(B) If the town operates in such a way that it is responsible for collecting towing fees, it shall:

- (1) Provide by contract or ordinance for a schedule of reasonable towing fees;
- (2) Provide a procedure for a prompt fair hearing to contest the towing;
- (3) Provide for an appeal to district court from that hearing;

(4) Authorize release of the vehicle at any time after towing by the posting of a bond or paying of the fees due; and

(5) Provide a sale procedure similar to that provided in G.S. §§ 44A-4, 44A-5, and 44A-6, except that no hearing in addition to the probable cause hearing is required. If no one purchases the vehicle at the sale and if the value of the vehicle is less than the amount of the lien, the city may destroy it.

(G.S. § 160A-303(d)) ('87 Code, § 90.07)

§ 95.08 EXEMPTIONS.

Nothing in this chapter shall apply to any vehicle in an enclosed building, any vehicle on the premises of a business enterprise being operated in a lawful place and manner, if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the town.

(G.S. § 160A-303(g)) ('87 Code, § 90.08)

CHAPTER 96: ANIMALS

Section

- 96.01 Definitions
- 96.02 Animal control officer; animal control facility
- 96.03 County animal control regulations applicable within town
- 96.04 Inhumane treatment prohibited
- 96.05 Animals running at large
- 96.06 Collars on dogs required
- 96.07 Injured, sick, or diseased animals
- 96.08 Animal constituting a public nuisance
- 96.09 Animal bites
- 96.10 Impoundment
- 96.11 Number of dogs allowed to be kept on premises in Town of Haw River
- 96.12 Stables
- 96.13 Hog pens
- 96.14 Fowl houses
- 96.15 Citation

- 96.99 Penalty

§ 96.01 DEFINITIONS.

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

ANIMAL CONTROL FACILITY. A facility designated or contracted for by the town which acts as the town's official animal control facility, whether the facility is owned or operated by the town or other governmental entity.

ANIMAL CONTROL OFFICER. Any agency and its lawful employees which has been duly contracted for or appointed by the Town Council and designated as its official **ANIMAL CONTROL OFFICER** or any officer of the Town Police Department.

AT LARGE. Any animal, reptile, dog or fowl shall be deemed to be at large when it is off the property of its owner and not under control of a competent person.

CAT. Any female or male cat.

DOG. Any female or male dog.

FOWL. Any and all domestic and game birds.

OWNER. Any person, firm, association, group, or corporation owning, keeping, or harboring an animal, reptile, dog, cat or fowl.

PREMISES. The principal residence of an owner. This does not include a vacant lot upon which no residence is located.

PUBLIC NUISANCE.

(1) Any dog, cat, fowl, other animal or reptile, including but not limited to any horse, mule, cow, hog or other stock animal which habitually or repeatedly chases, snaps at, attacks, or barks at pedestrians, bicyclists, or vehicles; turns over garbage pails; or damages gardens, flowers, or vegetables.

(2) Any facility maintained by the owner of a dog, cat, fowl, other animal or reptile, including but not limited to any horse, mule, cow, hog or other stock animal on his or her premises or any activity carried on or allowed by an owner that causes an offensive odor, injury, or damage to the health or life of any person or that interferes with the peaceful enjoyment of one's property.

(3) Any dog that allowed by its keeper or other custodian to bark, whine, howl, or make any other noise for a protracted period so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises.

RABIES SUSPECT. Any animal believed to have rabies or bitten by an animal suspected of having been running at large.

TOWN. The Town of Haw River.
(‘87 Code, § 91.01) (Ord. passed 10-7-75; Am. Ord. passed 3-6-78; Am. Ord. passed 7-13-81; Am. Ord. passed 6-7-10)

§ 96.02 ANIMAL CONTROL OFFICER; ANIMAL CONTROL FACILITY.

(A) The provisions of this chapter shall be enforced by the animal control officer or other law enforcement officers.

(B) The county animal control officer is hereby designated as the animal control officer for the town.

(C) The County Animal Shelter is hereby designated as the animal control facility for the town, as defined in § 96.01.

(‘87 Code, § 91.02) (Ord. passed 4-4-78; Am. Ord. passed 6-7-10)

§ 96.03 COUNTY ANIMAL CONTROL REGULATIONS APPLICABLE WITHIN TOWN.

The county animal control ordinance adopted pursuant to G.S. § 153A-122 shall be applicable within the town limits.

(‘87 Code, § 91.03) (Res. passed 1-6-86; Am. Ord. passed 6-7-10)

§ 96.04 INHUMANE TREATMENT PROHIBITED.

It shall be unlawful for any owner to fail to provide any animal with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment. It shall be unlawful for any person to beat, cruelly treat, torment, overload, overwork, secure animal by use of chaining for an extended period or otherwise abuse any animal, or cause or permit any dogfight, cockfight, bullfight, or other combat between animals or between animals and humans.

(‘87 Code, § 91.04) (Ord. passed 10-7-75; Am. Ord. passed 3-6-78; Am. Ord. passed 7-13-81; Am. Ord. passed 6-7-10) Penalty, see § 96.99

Statutory reference:

Authority to define, prohibit abuse of animals, see G.S. § 160A-182

§ 96.05 ANIMALS RUNNING AT LARGE.

(A) It shall be unlawful for the owner of any dog or cat to permit his or her dog or cat to run at large on the streets or sidewalks in the town unless the dog is under the control of a competent person either by leash, collar, chain, or otherwise. No person, whether he or she be the owner or user of any animal or reptile, including but not limited to any fowl, horse, mule, cow, hog or other animal, shall permit the same to run at large in the town.

(B) When an animal at large is reasonably believed to present a clear and present danger to the community and attempts to seize the animal are ineffective, the animal control officer or any other law enforcement officer may tranquilize and/or by use of any other non-lethal method tranquilize and subdue the animal in an attempt to facilitate a seizure of the animal, but if this is not feasible, the animal control officer or any other law enforcement officer may destroy the animal

(‘87 Code, § 91.05) (Ord. passed 10-7-75; Am. Ord. passed 3-6-78; Am. Ord. passed 7-13-81; Am. Ord. passed 6-7-10) Penalty, see § 96.99

Statutory reference:

Authority to regulate running-at-large of domestic animals, see G.S. § 160A-186

§ 96.06 COLLARS ON DOGS REQUIRED.

Every owner is required to see that his or her dog is wearing a collar with the owner's name and address stamped on or otherwise firmly attached to it. This collar shall be worn at all times.

('87 Code, § 91.06) (Ord. passed 10-7-75; Am. Ord. passed 3-6-78; Am. Ord. passed 7-13-81; Am. Ord. passed 6-7-10) Penalty, see § 96.99

§ 96.07 INJURED, SICK, OR DISEASED ANIMALS.

When the owner of an injured, sick, or diseased animal can be located, it will be his or her responsibility to provide veterinary care for the animal. In the event the owner cannot be located, the injured, sick, or diseased animal will be taken to the animal control shelter and held for 24 hours if it is not severely injured, sick, or diseased. After 24 hours, the animal may be adopted with the agreement that the person adopting the animal will bear the cost of veterinary care. If the animal is severely injured, sick, or diseased, the animal will be euthanized in the field or at the shelter at the discretion of the animal control officer.

('87 Code, § 91.07) (Ord. passed 10-7-75; Am. Ord. passed 3-6-78; Am. Ord. passed 7-13-81; Am. Ord. passed 6-7-10)

§ 96.08 ANIMAL CONSTITUTING A PUBLIC NUISANCE.

It shall be unlawful for any owner to keep or have within the town any animal or reptile, including but not limited to any dog, cat, fowl, horse, mule, cow, hog or other stock animal if the animal is reported as creating a public nuisance. Any animal or reptile including but not limited to any dog, fowl, horse, mule, cow, hog or other stock animal is a public nuisance if the animal control officer or other law enforcement officer has, after investigation and written notice to the owner, made a determination that the animal or reptile is a public nuisance as defined in § 96.01.

('87 Code, § 91.08) (Ord. passed 10-7-75; Am. Ord. passed 3-6-78; Am. Ord. passed 7-13-81; Am. Ord. passed 6-7-10) Penalty, see § 96.99

§ 96.09 ANIMAL BITES.

(A) Any dog, cat or other animal that bites a person shall be reported to the animal control officer immediately and quarantined for no less than ten days. It shall be the responsibility of the animal control officer to decide whether to quarantine the animal at the animal control facility, at the owner's home, or at the owner's expense and request in a veterinary hospital.

(1) Before an owner is allowed to quarantine his or her animal at home, he or she must show proof that the animal has been vaccinated against rabies (dogs only) and that the vaccination is still in effect. The owner must also satisfy the animal control officer that the animal can be securely confined at the home.

(2) If the animal control officer decides that the animal should be quarantined at the animal control facility, the owner shall surrender the animal and bear the expense of the confinement.

(B) After ten days, if the animal is determined to be free of rabies, the owner shall be notified by the animal control officer that, upon payment of the fees established by the animal control facility, he or she can reclaim his or her animal. However, if the animal does show signs of rabies during the observation period, the animal shall be destroyed and examined by the State Board of Health.

(C) Any stray dog or cat which has been involved in a bite whose owner cannot be located shall be quarantined at the shelter and euthanized at the end of the observation period. No animal that has been quarantined shall be placed for adoption.

(D) Any dead dog or cat which has been involved in a bite or any animal under quarantine that dies during observation shall be immediately beheaded and tested by the State Board of Health.

(E) All wild carnivores involved in bites shall be beheaded immediately and sent to the State Board of Health for testing. Other animals will be beheaded for testing at the discretion of the animal control officer after consultation with the local health director in accordance with G.S. § 130A-196. ('87 Code, § 91.09) (Ord. passed 10-7-75; Am. Ord. passed 3-6-78; Am. Ord. passed 7-13-81; Am. Ord. passed 6-7-10)

§ 96.10 IMPOUNDMENT.

(A) Any animal or reptile, including but not limited to any dog, cat, fowl, horse, mule, cow, hog or other stock animal running at large in violation of § 96.05 or any dog found not wearing a collar as provided in § 96.06 may be taken up by the animal control officer or any other law enforcement officer and impounded at the animal control facility.

(B) Any stray or lost animal or any animal involved in an animal bite incident may be taken up by the animal control officer or other law enforcement officer and impounded at the animal control facility.

(C) Upon proper impoundment, the animal shall be released, detained, adopted, euthanized, or sold according to the ordinance establishing and controlling the animal control facility and state law.

(D) The fees for impoundment shall be those as established by the duly authorized animal control facility.

('87 Code, § 91.10) (Ord. passed 10-7-75; Am. Ord. passed 3-6-78; Am. Ord. passed 7-13-81; Am. Ord. passed 6-7-10)

Statutory reference:

Authority to impound, see G.S. § 160A-186

§ 96.11 NUMBER OF DOGS ALLOWED TO BE KEPT ON PREMISES IN TOWN OF HAW RIVER.

(A) It shall be unlawful for any person to keep or maintain more than two dogs on any lot or parcel of land having less than 30,000 square feet, and an additional 7,000 square feet shall be required for an additional dog. A total of no more than three dogs shall be allowed on any lot or parcel of land within the town limits regardless of square footage. Provided, however, this limitation shall not apply to dogs which are less than five months of age.

(B) This restriction on the number of dogs will not apply to any dog on any lot or parcel of land on the date of enactment of this section. The Town Manager or other staff as he or she shall designate will establish a procedure for parties to register dogs with the Town of Haw River for verification and compliance with this provision.

(Ord. passed 6-7-10) Penalty see § 96.99

§ 96.12 STABLES.

In order to maintain any horse, mule, cow or other stock animal on any tract of property within the town, the tract of property must exceed three acres and have a stable. It shall be unlawful for any person who owns or maintains a stable in the corporate limits of the town, in which horses, mules or other stock animals are kept, to maintain such stable within 100 feet of any residence, business or church or within 100 feet from any street. It shall be unlawful in any event to keep such stable in an unclean or unsanitary condition. Such stable shall be thoroughly clean, and manure and other refuse accumulating therein shall be removed.

(Ord. passed 6-7-10) Penalty, see § 96.99

§ 96.13 HOG PENS.

Hog pens within the corporate limits of the town shall be located at least 200 feet away from any residence, business or church and hog pens shall be located at least 200 feet away from any street, and hog pens shall be raised with a floor at least 24 inches from the ground.

(Ord. passed 6-7-10) Penalty, see § 96.99

§ 96.14 FOWL HOUSES.

Structures housing fowl within the corporate limits of the town shall be located at least 200 feet away from any residence, business or church and structures housing fowl shall be located at least 200 feet away from any street, and all fowl houses shall be raised with a floor at least 24 inches from the ground. (Ord. passed 6-7-10) Penalty, see § 96.99

§ 96.15 CITATION.

(A) In addition to the remedy of impounding any animal or reptile, including but not limited to any dog, cat, fowl, horse, mule, cow, hog or other stock animal found at large, any town official authorized by the Chief of Police may issue to the known owner or person having control or custody of the animal or reptile, including but not limited to dog, cat, fowl, horse, mule, cow, hog or other stock animal a citation giving notice of violation of § 96.05 herein; any person violating any other provision of this chapter may be issued a citation giving notice of violation of the provisions of this chapter. Such authorized town official shall be authorized to secure the name and address of the owner or person in violation. Citations so issued will be delivered in person to the person charged. Citations issued under this chapter shall also be punished as provided in § 96.99

(B) The Chief of Police shall cause citations for all animals or reptiles, including but not limited to dogs, cats, fowl, horses, mules, cows, hogs or other stock animals to be serially numbered in triplicate and shall cause the records of these tickets to be so maintained that they can be accounted for. A report shall be made regularly to the Town Council.

(‘87 Code, § 91.11) (Ord. passed 10-7-75; Am. Ord. passed 3-6-78; Am. Ord. passed 7-13-81; Am. Ord. passed 6-7-10)

§ 96.99 PENALTY.

Any person, firm, or corporation violating any of the provisions of any section or subsection of this chapter for which no other penalty is provided, or failing or neglecting or refusing to comply with same, shall, upon conviction, be guilty of a Class 3 misdemeanor and subject to a fine not to exceed \$50 for first offense, \$250 for second offense, \$500 for third and subsequent offenses or imprisonment not to exceed 20 days, and each day that any of the provisions of this code of ordinances are violated shall constitute a separate offense.

(G.S. § 14-4(a) (Am. Ord. passed 6-7-10)

Statutory reference:

For provisions concerning enforcement of ordinances, see G.S. § 160A-175

CHAPTER 97: RESIDENTIAL SALES

Section

- 97.01 Definitions
- 97.02 Time limitations
- 97.03 Space limitations
- 97.04 Permit required
- 97.05 Enforcement

- 97.99 Penalty

§ 97.01 DEFINITIONS.

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

RESIDENTIAL SALE. Sale of goods from a dwelling, including any offer to sell goods, either retail or at auction. **RESIDENTIAL SALE** includes the terms **YARD SALE**, **GARAGE SALE**, **RUMMAGE SALE**, or any other term commonly used to describe this type of sale.

DWELLING. Any building or portion thereof designed, arranged, or used for living quarters, excluding motels, hotels, or other structures designed for transient residence.

GOODS. Merchandise for sale typically used in personal household or family settings.

CALENDAR YEAR. January 1 through December 31.
(Ord. passed 5-3-04)

§ 97.02 TIME LIMITATIONS.

It shall be unlawful to conduct a residential yard sale for more than two consecutive days with operating hours from 6:00 a.m. to 6:00 p.m., or to conduct more than three separate sales at the same dwelling within any calendar year.
(Ord. passed 5-3-04) Penalty, see § 97.99

§ 97.03 SPACE LIMITATIONS.

(A) Under the provisions of this section, a person may not place on display any goods closer than ten feet from the front property line of the dwelling.

(B) Displays may not extend beyond the property line of the permitted dwelling.

(C) Articles for sale may be displayed inside the garage, in the yard, and/or on a driveway, but so as not to hinder emergency equipment access to any structures on the property.

(D) Nothing in this section shall be construed as preempting additional restrictions imposed by the Town of Haw River or the State of North Carolina.
(Ord. passed 5-3-04) Penalty, see § 97.99

§ 97.04 PERMIT REQUIRED.

(A) A permit must be obtained in person at the Town of Haw River Municipal Building for each sale. An administrative fee of \$2 must be paid in advance of the sale, and permits will be address specific.

(B) Failure to produce an authorized permit upon request by a town official may result in a warning or fine.
(Ord. passed 5-3-04) Penalty, see § 97.99

§ 97.05 ENFORCEMENT.

Enforcement of this chapter shall be the responsibility of the Zoning Enforcement Officer, and the town Police Department may enforce this chapter by citation.
(Ord. passed 5-3-04)

§ 97.99 PENALTY.

(A) *Civil penalties.* Civil penalties shall be assessed for violations of this chapter as follows:

- (1) A warning citation for the first violation;
- (2) \$25 for the second violation; and
- (3) \$50 for each successive violation.

(B) *Criminal penalties.* A violation of this chapter shall constitute a misdemeanor, punishable by a fine of up to \$100 as authorized by G.S. § 14-4.

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. (RESERVED)**
- 111. CANVASSERS AND SOLICITORS**
- 112. ADVERTISING**
- 113. CABLE TELEVISION**

CHAPTER 110: (RESERVED)

[Next page is 9]

CHAPTER 111: CANVASSERS AND SOLICITORS

Section

- 111.01 Definitions
- 111.02 Permit required
- 111.03 Application; fee
- 111.04 Bond
- 111.05 Issuance of permit
- 111.06 Duration
- 111.07 Display of badge; production of permit
- 111.08 Revocation of permit
- 111.09 Appeal

- 111.99 Penalty

§ 111.01 DEFINITIONS.

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

CANVASSER or **SOLICITOR**. Any individual, whether a resident of the town or not, traveling by foot, wagon, automobile, motor truck, or any other type of conveyance from place to place, from house to house, or from street to street, taking or attempting to take orders for the sale of goods, wares, and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not the individual has, carries, or exposes for sale a sample of the subject of the sale or whether he or she is collecting advance payments on these sales or not. This definition shall include any person who, for himself, herself, or for another person, hires, leases, uses, or occupies any building, structure, tent, hotel room, lodging house, apartment, shop, or any other place within the town for the sole purpose of exhibiting samples and taking orders for future delivery. This definition shall not apply to any person who solicits:

- (1) Orders solely from industrial, commercial, or professional establishments within the town.
- (2) Orders solely for agricultural or forest products.
- (3) Orders solely for any kind of insurance, if the individual is licensed by the state, county, or town.

(4) For schools or approved educational, religious, or charitable organizations, when the proceeds from the solicitation in excess of the cost of goods sold go to the fund of some approved educational or charitable organization.

('87 Code, § 112.01) (Ord. passed 9-5-84)

§ 111.02 PERMIT REQUIRED.

It shall be unlawful for any solicitor or canvasser to engage in such business within the corporate limits of the town without first obtaining a permit therefor in compliance with the provisions of this chapter.

('87 Code, § 112.02) (Ord. passed 9-5-84) Penalty, see § 111.99

§ 111.03 APPLICATION; FEE.

(A) An applicant for a permit under this chapter shall file with the Town Manager a sworn application in writing on a form to be furnished by the Town Manager which shall give the following information:

(1) The name and description of the applicant.

(2) The permanent home address and full local address of the applicant.

(3) A brief description of the nature of the business and the goods or services to be sold.

(4) If employed or acting as an agent, the name and address of the employer or principal, together with credentials establishing the exact relationship.

(5) The length of time for which the permit is desired.

(6) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced where the goods or products are located at the time the application is filed, and the proposed method of delivery.

(7) Two photographs of the applicant taken within 60 days immediately prior to the date of the filing of the application, which photographs shall be two inches by two inches, showing the head and shoulders of the applicant in a distinguishing manner.

(8) The fingerprints of the applicant.

(9) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance; the nature of the offense; and the punishment or penalty assessed therefor.

(10) A statement by a reputable physician dated not more than ten days prior to submission of the application certifying the applicant to be free of contagious, infectious, or communicable disease.

(B) If any applicant for a permit has been convicted of any felony, misdemeanor, or violation of this code or other town ordinance, the Town Manager shall submit the application to the Chief of Police for his or her approval. If the Chief of Police shall find the previous criminal record of the applicant justifies the conclusion that the health and safety of occupants of homes solicited might be menaced by commission of a breach of the peace or some form of assault, he or she shall not approve the issuance of a permit.

(C) At the time of filing the application, a fee fixed by the Town Council and kept on file in the office of the Town Manager shall be paid to the town to cover the cost of issuing the permit.
(‘87 Code, § 112.03) (Ord. passed 9-5-84)

§ 111.04 BOND.

Before a permit is issued under this chapter, every applicant not a resident of the town or who, being a resident of the town represents a firm which does not have assets within the state which are subject to attachment whose principal place of business is located outside of the state, shall file with the Town Manager a surety bond running to the town in the amount of \$1,000, with surety acceptable to and approved by the Town Manager, conditioned that the applicant shall comply fully with all provisions of this code and other ordinances of the town and the statutes of the state regulating and concerning the business of solicitors and guaranteeing to any citizen of the town that all money paid as a down payment will be accounted for and applied according to the representation of the solicitor and further guaranteeing to any citizen of the town doing business with the solicitor that the property purchased will be delivered according to the representations of the solicitor. The bond shall provide that action thereon may be brought in the name of the town to the use or benefit of the aggrieved person. A surety bond issued by any surety company licensed to do business by the State Department of Insurance shall constitute a valid bond under this section.

(‘87 Code, § 112.04) (Ord. passed 9-5-84)

§ 111.05 ISSUANCE OF PERMIT.

Upon receipt of an application for a permit under § 111.03 and payment of the prescribed fee therefor, the Town Manager or other town official charged with regulation of solicitors shall deliver to the applicant:

(A) A permit containing the signature of the issuing officer, the name, address, and photograph of the licensee; the class of permit issued and the kind of goods to be sold thereunder; the date of issuance of the permit; the length of time the permit shall be in effect; the permit number; and an identifying description of any vehicles used in the soliciting.

(B) A badge which shall contain the words "licensed solicitor." The badge shall also show the period for which the permit is issued and the number of the permit.

(C) A copy of this chapter.

('87 Code, § 112.05) (Ord. passed 9-5-84)

§ 111.06 DURATION.

A permit issued under § 111.05 shall be effective during the fiscal year beginning July 1 and ending on June 30, unless the application requests permission to do business for a lesser period, in which case the permit shall be valid for that period. The permit is applicable only during the hours between 8:00 a.m. and 8:00 p.m.

('87 Code, § 112.06) (Ord. passed 9-5-84) Penalty, see § 111.99

§ 111.07 DISPLAY OF BADGE; PRODUCTION OF PERMIT.

(A) The badge issued under the provisions of § 111.05(B) shall, during the time the solicitor is engaged in soliciting, be worn constantly by him or her on the front of his or her outer garment in a way as to be conspicuous.

(B) It shall be the duty of any police officer in the town to require any person seen soliciting or canvassing to produce his or her solicitor's or canvasser's permit and to enforce the provisions of this chapter against any person found to be violating the same.

('87 Code, § 112.07) (Ord. passed 9-5-84) Penalty, see § 111.99

§ 111.08 REVOCATION OF PERMIT.

(A) A permit issued under the provisions of this chapter may be revoked by the Chief of Police, after notice and hearing, for any of the following causes:

(1) Fraud, misrepresentation, or false statement made in the course of carrying on business as a solicitor or canvasser or a statement made in the application for a permit.

(2) Any violation of this chapter.

(3) Soliciting or canvassing in an unlawful or abusive manner or in a manner as to constitute a breach of the peace or a menace to the health and enjoyment of the privacy of the home of any individual called upon or solicited.

(4) Conviction during the permit year of any crime or misdemeanor involving moral turpitude.

(B) A notice of the hearing for revocation of the license shall be given in writing, setting forth specifically the grounds for complaint and the time and place of the hearing. The notice shall be mailed, postage paid, to the licensee at his or her last known address at least five days prior to the date set for the hearing.

('87 Code, § 112.08) (Ord. passed 9-5-84)

§ 111.09 APPEAL.

Any person aggrieved by the action of the Chief of Police in the denial of or in the revocation of a permit, or the rejection of an application for a permit under § 111.03(B), shall have the right to appeal to the Town Council. The appeal shall be taken by filing with the Town Council, within 14 days after notice of the action complained of has been mailed to the person's last known address, a written statement setting forth fully the grounds for the appeal. The Town Council shall set a time and place for a hearing on the appeal, and notice of the hearing shall be given to the applicant in the same manner as provided for notice of hearing on revocation. The decision of the Town Council on the appeal shall be final and conclusive.

('87 Code, § 112.09) (Ord. passed 9-5-84)

§ 111.99 PENALTY.

Any person, firm, or corporation violating the provisions of this chapter shall, upon conviction, be guilty of a misdemeanor and shall be punished in accordance with the provisions of § 10.99.

('87 Code, § 112.99) (Ord. passed 9-5-84)

CHAPTER 112: ADVERTISING

Section

- 112.01 Purpose
- 112.02 Definitions
- 112.03 Distribution of handbills
- 112.04 Posting of bills or notices

§ 112.01 PURPOSE.

In order to protect the people against the nuisance of the promiscuous distribution of handbills and circulars (particularly commercial handbills), the public interest, convenience, and necessity requires the regulation thereof, and to that end the purposes of this chapter shall be as follows:

(A) To protect the people against the health and safety menace and the expense incident to the littering of the streets and public places by the promiscuous and uncontrolled distribution of advertising matter and commercial handbills.

(B) To preserve to the people their constitutional rights to receive and disseminate information not restricted under the ordinary rules of decency and good morals and public order, by the promiscuous distribution of advertising and commercial circulars and the right to deliver noncommercial handbills to all who are willing to receive such handbills.

(‘87 Code, § 111.01)

§ 112.02 DEFINITIONS.

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

BILLPOSTER. Any person engaging in the business for hire of posting, fastening, nailing, or affixing any written, painted, or printed matter of any kind containing a message of information of any kind to any outdoor billboard or on any bridge, fence, pole, post, sidewalk, tree, or on the exterior of any other structure. This definition shall not apply to or include any sign mounted on, fastened to, or suspended from the outside of any building or other structure in accordance with and authorized by any provision of this code or any statute, either for any public convenience or use or for regulating the construction or use of outdoor display signs whether the display signs are illuminated or not.

COMMERCIAL HANDBILL. Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper booklet, or any other printed or otherwise reproduced original or copy of any matter of literature which:

- (1) Advertises for sale any merchandise, produce, commodity, or thing;
- (2) Directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales;
- (3) Directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind for which an admission fee is charged for the purposes of private gain or profit. However, the terms of this division shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given, or takes place in connection with the dissemination of information which is not restricted under ordinary rules of decency, good morals, public peace, safety, and good order. Further, nothing contained in this division shall be deemed to authorize the holding, giving, or taking place of any meeting, theatrical performance, exhibition, or event of any kind without a license, where such license is or may be required by any law of this state or any ordinance of this town; or,
- (4) While containing reading matter other than advertisement, is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

HANDBILL DISTRIBUTOR. Any person engaging or engaged in the business for hire or gain of distributing commercial or noncommercial handbills, other than newspapers distributed to subscribers thereof, and any person receiving compensation directly or indirectly for the distribution of such handbills.

NEWSPAPERS. Any newspaper of general circulation as defined by general law; any newspaper duly entered with the Post Office Department of the United States in accordance with federal statute or regulation; any newspaper filed and recorded with any recording office as provided by general law; and in addition thereto, shall mean and include any periodical or current magazine regularly published with no less than four issues per year and sold to the public.

NONCOMMERCIAL HANDBILL. Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copy of any matter or literature not included in the definitions of commercial handbill or newspaper.

PRIVATE PREMISES. Any dwelling, house, building, or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily uninhabited or vacant, and shall include any yard, ground, walk, driveway, porch, steps, vestibule, or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.
(‘87 Code, § 111.02)

§ 112.03 DISTRIBUTION OF HANDBILLS.

(A) *Throwing or distributing handbills in public places.* No person shall throw or deposit any commercial or noncommercial handbill in or on any sidewalk, street, or other public place within the town or hand out, distribute, or sell any commercial handbill in any public place; provided, that any person may hand out, distribute, or sell to the receiver thereof any noncommercial handbill to any person willing to accept it.

(B) *Placing commercial and noncommercial handbills on vehicle.*

(1) No person shall throw or deposit any commercial or noncommercial handbill in or on any vehicle.

(2) This division (B) shall not prohibit any person in any public place from handing out or distributing, without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

(C) *Distributing handbills on streets, highways, and intersections.* No person shall, in the course of distributing commercial or noncommercial handbills to occupants of vehicles temporarily stopped on town streets, highways, or intersections, distribute handbills if such actions:

(1) Obstruct any public street, highway, or intersection by hindering, impeding, or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic, or pedestrians;

(2) Create or cause to be created a danger of breach of the peace; or,

(3) Create or cause to be created any danger to the life and safety of pedestrians or occupants of vehicles engaged in lawful passage on any street, highway, or intersection.

(D) *Depositing commercial and noncommercial handbills on uninhabited or vacant premises.*

(1) No person shall throw or deposit any commercial or noncommercial handbill in or on any private premises which are temporarily or continuously uninhabited or vacant, where:

(a) It is apparent that the property is unoccupied;

(b) It is apparent that a previous day's distribution of handbills has not been removed; or

(c) The owner has not given his or her permission to do so.

(E) *Distribution of commercial and noncommercial handbills at inhabited private premises.*

(1) No person shall throw, deposit, or distribute any commercial or noncommercial handbill in or on private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or on such private premises.

(2) Any person may place or deposit any noncommercial handbill in or on inhabited private premises which are not posted as provided in division (F) hereafter, unless requested by anyone on such premises not to do so; and may place or deposit any such handbill in or on such inhabited private premises if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets, or other public places. However, mailboxes may not be so used when prohibited by federal postal law or regulations.

(3) This division (E) shall not apply to the distribution of mail by the United States, nor to newspapers, except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements on any street, sidewalk, or other public place or on private property.

(F) *Distributing handbills prohibited where premises properly posted.* No person shall throw, deposit, or distribute any commercial or noncommercial handbill on private premises if requested by anyone thereon not to do so, or if there is placed on such premises in a conspicuous position near the entrance thereof a sign bearing the words "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice indicating in any matter that the occupants of the premises do not desire to be molested or have their right of privacy disturbed or to have any such handbills left on such premises.

(G) *Commercial distributors of handbills; license required.*

(1) No person shall engage in the business of a handbill distributor for hire without first obtaining a license in accordance with this section.

(2) Any person desiring to engage, as principal, in the business of distributing commercial or noncommercial handbills for hire shall make application to and receive from the Town Manager a distributor's license. Such applicant shall make written application on forms provided for such purpose by the Town Manager. These forms shall contain, among other things that may be required, the name, the business address, and a brief description of the nature of the business to be conducted by the applicant, the probable number of agents and employees so to be engaged, together with a request for a license for the period for which the applicant seeks to engage in such business.

(3) License fees for a commercial distributor's license shall be set by the Town Council.

(4) No license issued under this section shall be transferable to any other person.

(5) If any commercial distributor's license is surrendered by the licensee or is revoked for cause, neither the licensee named in such license nor any other person shall be entitled to any refund of part of the license fee.

(6) The Town Council may revoke any license obtained under an application containing a false or fraudulent statement knowingly made by the applicant with intent to obtain a license by means of false or fraudulent representations or for violation of this chapter or any other relevant laws and regulations.

(7) The provisions of this section shall not be deemed to apply to distribution of mail by the United States nor to newspapers.

(H) All commercial handbills which are distributed, deposited, scattered, handed out, or circulated in any place or under any circumstances shall have printed on the corner, front, or back thereof, the following information:

(1) The name and address of the person who printed, wrote, compiled, or manufactured such handbill; and

(2) The name and address of the person who caused such handbill to be distributed.
(‘87 Code, § 111.03) Penalty, see § 10.99

§ 112.04 POSTING OF BILLS OR NOTICES.

(A) License requirements.

(1) No person shall engage in the business of a billposter for hire without first complying with the terms of this chapter and all other relevant laws and regulations.

(2) Any person desiring to engage, as principal, in the business of a billposter for hire, shall make application to and receive from the Town Manager a license in the manner and for the period prescribed by the terms of this section. Such applicant shall make written application on forms provided for such purpose by the Town Manager. These forms shall contain, among other things that may be required, the name, the business address, and a brief description of the nature of the business to be conducted by the applicant, the probable number of agents and employees so to be engaged, together with a request for a license for the period for which the applicant seeks to engage in such business. Such application shall be accompanied by the fee provided by the Town Council.

(3) No license issued under this section shall be transferable to any other person.

(4) If any billposter's license is surrendered by the licensee or is revoked for cause, neither the licensee named in such license nor any other person shall be entitled to any refund of any part of the license fee.

(5) The Town Council may revoke any license obtained under an application containing a false or fraudulent statement knowingly made by the applicant with intent to obtain a license by means of false or fraudulent representations or for violation of this chapter or any other relevant laws and regulations.

(B) Prohibited activities.

(1) No person shall post or affix any notice, poster, or other paper or device calculated to attract the attention of the public to any lamp post, public utility pole, or on any public structure or building, except as may be authorized or required by law.

(2) No person shall post, paint, burn, sit up, or expose any bill, placard, or advertisement, or cause the same to be posted, painted, burnt, set up, or exposed on the property or premises of any other person without first obtaining the consent of the legal owner or custodian of such property or premises.

(3) No person shall willfully or recklessly remove, tear down, deface, injure, or destroy any written or printed handbill, poster, or other notice or advertisement of like character legally posted or otherwise legally displayed in any public place in this town, so long as the same shall be of value for the purposes thereof to the person who posted or displayed the same, or caused it to be posted or displayed.

(4) No person shall paint, post, paste, or otherwise in any manner attach any bills, posters, streamers, or advertisements on any telephone, telegraph, electric light poles, or any other utility poles located on the streets, thoroughfares, or alleys in the town. The Police Department shall tear down or remove any bills, posters, or display advertisements in any manner attached to any utility poles.
(‘87 Code, § 111.04) Penalty, see § 10.99

CHAPTER 113: CABLE TELEVISION

Section

113.01 Regulation of basic service tier rates and related equipment, installation, and service charges

§ 113.01 REGULATION OF BASIC SERVICE TIER RATES AND RELATED EQUIPMENT, INSTALLATION, AND SERVICE CHARGES.

(A) The town will follow the FCC rate regulations in its regulation of the basic service rates and charges of the company and any other cable television system operating in the town, notwithstanding any different or inconsistent provisions in the franchise agreements.

(B) In connection with such regulation, the town will ensure a reasonable opportunity for consideration of the views of interested parties.

(C) The Town Manager, or his or her designee, is authorized to execute on behalf of the town and file with the FCC such forms or instruments as are now or may hereafter be required by the FCC rate regulations in order to enable the town to regulate basic service rates and charges.

(Ord. passed 12-6-93)

TITLE XIII: GENERAL OFFENSES

Chapter

130. OFFENSES AGAINST PROPERTY

131. OFFENSES AGAINST PUBLIC PEACE AND SAFETY

CHAPTER 130: OFFENSES AGAINST PROPERTY

Section

- 130.01 Injury to public property
- 130.02 Interference with fire alarm system prohibited
- 130.03 Damage to fire hose prohibited

§ 130.01 INJURY TO PUBLIC PROPERTY.

(A) No person shall willfully or negligently injure or interfere with any valve, box valve, meter box, storm or sanitary sewer manhole cover, storm sewer catch basin cover, fire hydrant, police or fire alarm box, traffic signal, or any other public property used in the town's water, sewer, police, or fire alarm systems.

(B) It shall be unlawful to destroy, injure, damage, deface, cut, or pull down any light, pump, well, tree, shrub, or flower in any street, park, or public place or to injure, damage, or deface any building belonging to the town.

('87 Code, § 130.01) (Ord. passed 12-2-74) Penalty, see § 10.99

§ 130.02 INTERFERENCE WITH FIRE ALARM SYSTEM PROHIBITED.

No person shall interfere carelessly or willfully with the fire alarm system or injure the poles, wires, boxes, or other apparatus connected therewith.

('87 Code, § 130.02) (Ord. passed 1-1-77) Penalty, see § 10.99

§ 130.03 DAMAGE TO FIRE HOSE PROHIBITED.

It shall be unlawful for any person to in any way damage or mutilate any fire hose while in use at a fire or otherwise.

('87 Code, § 130.03) (Ord. passed 1-7-74) Penalty, see § 10.99

CHAPTER 131: OFFENSES AGAINST PUBLIC PEACE AND SAFETY

Section

131.01 Discharge of firearms regulated

131.02 Consumption of alcoholic beverages on town property

131.03 Wine, fortified wine, and mixed beverages on Sunday mornings

§ 131.01 DISCHARGE OF FIREARMS REGULATED.

(A) It shall be unlawful for any person to possess or carry, or to fire or discharge, any gun, rifle, pistol or other firearm on or in any building, park, recreation area or other property owned or operated by the town, whether within or outside the corporate limits, or on or in any public school building or grounds within the town except that nothing in this section shall prohibit a person from storing a firearm within a motor vehicle while the vehicle is on these grounds or areas. The Town Manager or his designee is hereby authorized and instructed to post conspicuous signage at appropriate locations on or within each park and each building or portion of a building owned, leased as lessee, operated, occupied, managed or controlled by the town, as well as the appurtenant premises to such buildings, indicating that carrying a concealed weapon is prohibited therein.

(B) No person shall discharge or shoot a gun, air rifle, air pistol, or other kind of firearm or similar implement within the town limits; however, nothing in this section or any other town ordinance shall be construed to prevent or prohibit the following:

(1) A police officer from discharging a firearm in the performance of his or her duty.

(2) A person from discharging a firearm in the defense of life or property.

(3) Rifle ranges under the control and supervision of the North Carolina National Guard, the National Rifle Association, or any of its affiliated clubs may be permitted, subject however, to such ranges being inspected and approved from time to time and at least annually by the Chief of Police, and provided that under no conditions whatsoever shall such ranges be operated on a commercial basis. ('87 Code, § 131.01) (Ord. passed 9-5-84; Am. Ord. passed 10-6-08; Am. Ord. passed 3-5-12; Am. Ord. passed 10-7-13; Am. Ord. passed 11-2-15) Penalty, see § 10.99

§ 131.02 CONSUMPTION OF ALCOHOLIC BEVERAGES ON TOWN PROPERTY.

(A) It shall be unlawful for any person to consume any malt beverage, fortified and unfortified wine, spiritous liquors, or any other form of alcoholic beverage on any property owned, leased, rented, or otherwise under the control of the town.

(B) In addition, or in the alternative, to the penalty provided in § 10.99, the town may elect to enforce this section by seeking injunctive relief pursuant to G.S. § 160A-175.
(‘87 Code, § 131.02) (Ord. passed 7-13-81) Penalty, see § 10.99

§ 131.03 WINE, FORTIFIED WINE, AND MIXED BEVERAGES ON SUNDAY MORNINGS.

The sale of malt beverages, unfortified wine, fortified wine and mixed beverages shall be allowed within Haw River’s corporate limits at any premises licensed pursuant to G.S. 18B-1001 on Sundays beginning at 10:00 a.m.
(Ord. 131-03, passed - -)

TITLE XV: LAND USAGE

Chapter

- 150. BUILDING REGULATIONS**
- 151. MINIMUM HOUSING STANDARDS**
- 152. FLOOD DAMAGE PREVENTION**
- 153. MANUFACTURED HOME PARKS**
- 154. SUBDIVISION CODE**
- 155. ZONING CODE**
- 156. FIRE PREVENTION CODE**
- 157. PHASE II STORMWATER CODE**
- 158. RIPARIAN BUFFER PROTECTION**

CHAPTER 150: BUILDING REGULATIONS

Section

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- 150.02 NC State Building Code adopted by reference
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- 150.04 (Reserved)
- 150.05 (Reserved)
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GENERAL PROVISIONS

§ 150.01 SCOPE OF CHAPTER.

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

(1) The location, design, materials, equipment, construction, reconstruction, alteration, repair, maintenance, moving, demolition, removal, use, and occupancy of every building or structure or any appurtenances connected or attached to such building or structure.

(2) The installation, erection, alteration, repair, use, and maintenance of plumbing systems, consisting of house sewers, building drains, waste and vent systems, hot and cold water supply systems, and all fixtures and appurtenances thereof.

(3) The installation, erection, alteration, repair, use, and maintenance of mechanical systems, consisting of heating, ventilating, air conditioning, and refrigeration systems, fuel burning equipment, and appurtenances thereof.

(4) The installation, erection, alteration, repair, use, and maintenance of electrical systems and appurtenances thereof.

(B) The adoption of this building code and the codes herein adopted by reference are in accordance with G.S. § 143-138(e) making the regulatory codes herein adopted applicable to dwellings and

outbuildings used in connection therewith and to apartment buildings used exclusively as the residence of not more than two families.

(‘87 Code, § 150.01) (Ord. passed 12-2-74)

§ 150.02 NC STATE BUILDING CODE ADOPTED BY REFERENCE.

The most current edition of the North Carolina State Building Code, including the North Carolina Building Code, North Carolina Residential Code, North Carolina Fire Code, North Carolina Plumbing Code, North Carolina Mechanical Code, North Carolina Fuel and Gas Code, North Carolina Energy Conservation Code, North Carolina Administrative Codes and Policies, North Carolina Modular Construction Regulations North Carolina Existing Building Code, North Carolina Manufactured Home Code and all appendices therein, as adopted by the International Code Council and as adopted and amended by the North Carolina Building Code Council, is hereby adopted by reference as fully as though set forth herein as the Building Code of the town, to the extent such code is applicable for safe and stable design, methods of construction, minimum standards, and use of materials in buildings or structures erected, enlarged, altered, repaired, or otherwise constructed or reconstructed within the town and its extra-territorial jurisdiction.

(‘87 Code, § 150.02) (Ord. passed 12-2-74; Am. Ord. passed 8-1-11)

§ 150.03 NC ELECTRICAL CODE ADOPTED BY REFERENCE.

The most current edition of the North Carolina Electrical Code, (NFPA 70, National Electrical Code), and all appendices, as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Electrical Code for the town and its extra-territorial jurisdiction.

(Ord. passed 8-1-11)

§ 150.04 (RESERVED).

§ 150.05 (RESERVED).

§ 150.06 (RESERVED).

§ 150.07 AMENDMENTS TO CODES.

Amendments to the code adopted by reference in this chapter, which are from time to time adopted and published by the agencies or organizations referred to herein, shall be effective in the town at the time such amendments are effective and enforceable in the state of North Carolina.

(Ord. passed 8-1-11)

§ 150.08 COMPLIANCE WITH CODES.

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

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

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

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

('87 Code, § 150.08) (Ord. passed 12-2-74) Penalty, see § 150.99

§ 150.09 COPIES OF CODE FILED WITH TOWN MANAGER.

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

('87 Code, § 150.09) (Ord. passed 12-2-74)

§ 150.10 REGISTRATION OF CONTRACTORS; BOND.

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

(B) Every person required to register at the office of the Inspection Department under division (A) of this section shall also give a good and sufficient bond in the sum of \$1,000 to be approved by the Town Attorney, conditioned upon faithful performance of duty in doing any work which he or she may have contracted to do, and shall indemnify the town against loss in any manner whatsoever for any unskilled or negligent work or conduct in the performance of the duties imposed by the provisions of this chapter or any regulatory code herein adopted, or any damage to any utility lines, streets, or sidewalks in the town, or for the use of defective or improper material in such work, or for any damage which may accrue to any person by reason of any default of the contract, or for the payment of any inspection or other fees required by this chapter.

('87 Code, § 150.10) (Ord. passed 12-2-74) Penalty, see § 150.99

PERMITS

§ 150.25 PERMITS REQUIRED; APPLICATION.

(A) *General regulations.*

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

(2) A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable state and local laws. No permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and if

state law requires that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit shall be issued unless the plans and specifications bear the state seal of a registered architect or of a registered engineer. When any provision of state law or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor.

(3) No permit issued under G.S. §§ 143-136 through 143-143.2 or §§ 143-151.8 through 143-151.21 shall be required for any construction, installation, repair, replacement, or alteration costing \$5,000 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 North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section shall constitute a misdemeanor. (G.S. § 160A-417)

(B) *Plumbing permit.* No person shall commence or proceed with the installation, extension, or general repair of any plumbing system without a written permit therefor from the Plumbing Inspector. However, no permit shall be required for minor repairs or replacements on the house side of a trap to an installed system of plumbing if the repairs or replacements do not disrupt the original water supply or the waste or ventilating systems. Local Board of Health approval of property for septic tanks is required where a sewage system cannot be connected to the town sewer.

(C) *Heating-air conditioning permit.* No person shall commence or proceed with the installation, extension, alteration, or general repair of any heating or cooling equipment system without a written permit from the Heating-Air Conditioning Inspector. However, no permit shall be required for minor repairs, minor burner services, or filter replacements of warm air furnaces or cooling systems.

(D) *Electrical permit.* In accordance with G.S. § 143-143.2, no person shall commence or proceed with the installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment without a written permit therefor from the Electrical Inspector. However, no permit shall be required for minor repair work such as the replacement of lamps or the connection of portable devices to suitable receptacles which have been permanently installed. Further, no permit shall be required for the installation, alteration, or repair of the electrical wiring, devices, appliances, and equipment installed by or for an electrical public utility corporation for the use of such corporation in the generation, transmission, distribution, or metering of electrical energy or for the use of such a corporation in the operation of signals or the transmission of intelligence.

(‘87 Code, § 150.20) (Ord. passed 12-2-74) Penalty, see § 150.99

§ 150.26 PLANS AND SPECIFICATIONS.

(A) Detailed plans and specifications shall accompany each application for a permit when the estimated total cost of the building or structure is in excess of \$20,000 and for any other building or structure where plans and specifications are deemed necessary by the appropriate inspector in order for

him or her to determine whether the proposed work complies with the appropriate regulatory codes. Plans shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed, and the plans and specifications together shall contain information sufficient to indicate that the work proposed will conform to the provisions of this chapter and the appropriate regulatory codes. Where plans and specifications are required, a copy of the same shall be kept at the work until all authorized operations have been completed and approved by the appropriate inspector.

(B) Written application shall be made for all permits required by this chapter and shall be made on forms provided by the Inspection Department. The application shall be made by the owner of the building or structure affected or by his or her authorized agent or representative, and, in addition to such other information as may be required by the appropriate inspector to enable him or her to determine whether the permit applied for should be issued, the application shall show the following:

(1) Name, residence, and business address of owner.

(2) Name, residence, and business of authorized representative or agent, if any.

(3) Name and address of the contractor, if any, together with evidence that he or she has obtained a certificate from the appropriate state licensing board for such contractors, if this is required for the work involved in the permit for which application is made.

(C) In all cases of removal or demolition of a building or structure, a good and sufficient bond in the sum of \$500 shall be posted by the property owner or by his or her contractor at the time of application for a permit to insure complete removal or demolition including all rubble and debris. Failure on the part of the property owner or his or her contractor to completely demolish, remove, and clear the premises after 30 days notice by the Building Inspector shall be cause for forfeiture of the bond. ('87 Code, § 150.21) (Ord. passed 12-2-74) Penalty, see § 150.99

§ 150.27 ISSUANCE; LIMITATIONS.

(A) *Issuance.* When proper application for a permit has been made and the appropriate inspector is satisfied that the application and the proposed work comply with the provisions of this chapter and the appropriate regulatory codes, he or she shall issue such permit, upon payment of the proper fee provided in § 150.28.

(B) *Limitations on issuance.*

(1) No building permit shall be issued for any building or structure, the estimated total cost of which is more than \$20,000, unless the work is to be performed by a licensed general contractor.

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

(3) Where any provision of state law, this chapter, or other ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for such work shall be issued unless it is to be performed by such licensed specialty contractor.

(4) Where detailed plans and specifications are required under this chapter, no building permit shall be issued, unless such plans and specifications have been provided.
(‘87 Code, § 150.22) Penalty, see § 150.99

§ 150.28 FEES.

(A) Fees for permits shall be based upon the total estimated cost of the proposed work, including all subcontracts, if any, but in no case shall the total estimated cost be less than the market value of similar completed work in the town, as determined by the appropriate inspector.

(B) Permit fees shall be as follows:

(1) Building permit fees (see schedule of fees in the office of the Building Inspector).

(2) Plumbing permit fees (see schedule of fees in the office of the Plumbing Inspector).

(3) Heating-air conditioning permit fees (see schedule of fees in the office of the Heating-Air Conditioning Inspector).

(4) Electrical permit fees (see schedule of fees in the office of the Electrical Inspector).
(‘87 Code, § 150.23) (Ord. passed 12-2-74)

§ 150.29 TIME LIMITATIONS ON VALIDITY.

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

(G.S. § 160A-418) (‘87 Code, § 150.24) Penalty, see § 150.99

§ 150.30 CHANGES IN WORK AFTER ISSUANCE.

After a permit has been issued, no changes or deviations from the terms of the application plans and specifications or permit, except where changes or deviations are clearly permissible under the State Building Code, shall be made, until specific written approval of such changes or deviations has been obtained from the appropriate inspector.

(G.S. § 160A-419) (‘87 Code, § 150.25) (Ord. passed 12-2-74) Penalty, see § 150.99

§ 150.31 REVOCATION.

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

(G.S. § 160A-422) ('87 Code, § 150.26) (Ord. passed 12-2-74))

§ 150.32 COMPLIANCE WITH ZONING CODE.

(A) If the Inspection Department is charged with enforcement of the zoning code, then no permit for alteration, repair, or construction of any building or structure shall be issued unless the plans and specifications show that the building or structure, and its proposed use, will be in compliance with applicable provisions of the zoning code.

(B) If the Inspection Department is not charged with enforcement of the zoning code, then no permit for alteration, repair, or construction of any building or structure shall be issued until a zoning permit has first been issued by the appropriate official charged with enforcement of the zoning code.

('87 Code, § 150.27) (Ord. passed 12-2-74)

§ 150.33 PERMIT FOR REPLACEMENT AND DISPOSAL OF ROOFING MATERIALS.

(A) A permit shall be required for the removal and replacement of roofing if the cost of removing and replacing roofing exceeds \$1,500.

(B) The application for the permit required in division (A) of this section shall state the disposal site for the replaced roofing, and the designated disposal site shall be included on the face of the permit.

(C) The permit shall be issued by the County Inspection Department in accordance with and be controlled by the provisions contained in G.S. Chapter 153A, Article 18, Part 4.

(D) The violation of this chapter shall be a misdemeanor punishable by a fine not to exceed \$500 or imprisonment of not more than 30 days, or both fine and imprisonment.

(E) In addition to the criminal penalties provided herein, a County Building Inspector is hereby authorized to institute an appropriate action of proceeding to prevent, restrain, correct, or abate the violation of this section as well as issue stop orders as provided by G.S. § 153A-361.

(Ord. passed 11-1-93)

UNSAFE BUILDINGS**§ 150.45 INSPECTION; NOTICE TO OWNER TO CORRECT.**

When the Inspector finds any defects in a building, finds that the building has not been constructed in accordance with the applicable state and local laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be his or her duty to notify the owner or occupant of the building of its defects, hazardous conditions, or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property he or she owns.

(G.S. § 160A-425) ('87 Code, § 150.35) Penalty, see § 150.99

§ 150.46 CONDEMNATION OF ESPECIALLY DANGEROUS BUILDINGS.

(A) Every building which shall appear to the Inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes, shall be held to be unsafe, and the Inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of the building. (G.S. § 160A-426)

(B) If any person shall remove any notice that has been affixed to any building or structure by the Inspector that states the dangerous character of the building or structure, he or she shall be guilty of a misdemeanor. (G.S. § 160A-427)

('87 Code, § 150.36) Penalty, see § 150.99

§ 150.47 FAILURE OF OWNER.

(A) If the owner of a building or structure that has been condemned as unsafe pursuant to § 150.46(A) shall fail to take prompt corrective action, the Inspector shall give him or her written notice, by certified or registered mail to his or her last known address or by personal service:

(1) That the building or structure is in a condition that appears to constitute a fire or safety hazard or to be dangerous to life, health, or other property;

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

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

(B) If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least ten days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the town at least once not later than one week prior to the hearing. (G.S. §160A-428)

(C) If, upon a hearing held pursuant to the notice prescribed in divisions (A) and (B) above, the Inspector shall find that the building or structure is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health, or other property, he or she shall make an order in writing, directed to the owner of such building or structure, requiring the owner to remedy the defective conditions by repairing, closing, vacating, or demolishing the building or structure or taking other necessary steps, within a period, not less than 60 days, that the Inspector may prescribe. However, where the Inspector finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible. (G.S. § 160A-429) ('87 Code, § 150.37) Penalty, see § 150.99

§ 150.48 APPEAL BY OWNER.

Any owner who has received an order under § 150.47(C) may appeal from the order to the Town Council by giving notice of appeal in writing to the Inspector and to the Town Manager within ten days following issuance of the order. In the absence of an appeal, the order of the Inspector shall be final. The Town Council shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order. (G.S. § 160A-430) ('87 Code, § 150.38)

§ 150.49 ENFORCEMENT PROCEDURES AGAINST OWNER.

If the owner of a building or structure fails to comply with an order issued pursuant to § 150.47(C) from which no appeal has been taken, or fails to comply with an order of the Town Council following an appeal, he or she shall be guilty of a misdemeanor and shall be punished in the discretion of the court. (G.S. §160A-431) ('87 Code, § 150.39) Penalty, see § 150.99

PROPERTY NUMBERING SYSTEM

§ 150.60 ADOPTION OF NUMBERING MAP.

The property numbering map entitled "Property Numbering Map, Town of Haw River, Haw River, North Carolina" and dated July 1974, is hereby adopted as the official property numbering map of the town, and all property numbers assigned shall be assigned in accordance with this numbering map. No

other property numbers shall be used or displayed in the town except numbers assigned in accordance with the official numbering map which shall be kept on file in the office of the Town Manager.
(‘87 Code, § 154.01) (Ord. passed 8-5-74) Penalty, see § 10.99

§ 150.61 NUMBERING SYSTEM.

(A) On the property numbering map there shall be a designated north-south axis and an east-west axis; the north-south axis will be the Haw River, the east-west axis will be the U.S. Highway 70. All avenues, streets, and alleys running generally north and south shall be numbered from the east-west axis consecutively to the corporate limits or the extremity of the avenue, alley, or street. Avenues, streets, or alleys running generally east and west shall be numbered from the north-south axis in the same manner. Wherever possible, 100 numbers shall be allowed to each block so that the number of each consecutive block shall commence with consecutive hundreds and one.

(B) One whole number shall be assigned for every 50 feet of ground whether improved property or vacant lot on every street within the corporate limits except in the area designated on the property numbering map as the business area in which one whole number shall be assigned for every 25 feet of ground whether improved or not. Even numbers shall be assigned to the left side of the street and odd numbers to the right side going away from the axis toward the corporate limits.
(‘87 Code, § 154.02) (Ord. passed 8-5-74)

§ 150.62 DISPLAY OF NUMBERS.

Every owner of improved property shall purchase and display in a conspicuous place on his or her property the number assigned which shall be of a type approved by the Town Council.
(‘87 Code, § 154.03) (Ord. passed 8-5-74) Penalty, see § 10.99

§ 150.63 NUMBERS FOR FUTURE BUILDINGS.

All residence and business buildings erected after the adoption of this chapter shall be assigned a number in accordance with the property map, and the building owners shall purchase and display the number as provided in § 150.62.
(‘87 Code, § 154.04) (Ord. passed 8-5-74) Penalty, see § 10.99

§ 150.64 DEFACING OF NUMBERS.

It shall be unlawful for any person to alter, deface, or take down any number placed on any property in accordance with this chapter, except for repair or replacement of the number.
(‘87 Code, § 154.05) (Ord. passed 8-5-74) Penalty, see § 10.99

INSPECTION DEPARTMENT**§ 150.75 ORGANIZATION.**

(A) The Inspection Department shall consist of a Building Inspector, a Plumbing Inspector, a Heating-Air Conditioning Inspector, an Electrical Inspector, and such other inspectors or deputy or assistant inspectors as may be authorized by the Town Council. The Town Council may, in its discretion, designate a Department Head.

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

(1) A probationary certificate, valid for one year only;

(2) A standard certificate; or

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

(C) An inspector holding one of the above certificates can be promoted to a position requiring a higher level certificate only upon issuance by the Qualification Board of a standard certificate or probationary certificate appropriate for such new position.

(G.S. § 160A-411.1) ('87 Code, § 150.50)

Statutory reference:

Inspection Department, see G.S. § 160A-411

§ 150.76 DUTIES AND POWERS OF INSPECTORS.

(A) It shall be the duty of the Inspection Department to enforce all of the provisions of this chapter and of the regulatory codes adopted herein, and to make all inspections necessary to determine whether or not the provisions of this chapter and such codes are being met. The North Carolina State Building Code, Volume I, General Construction, and the North Carolina Uniform Residential Building Code shall be enforced by the Building Inspector. The North Carolina Plumbing Code shall be enforced by the Plumbing Inspector. The North Carolina Heating Code shall be enforced by the Heating-Air Conditioning Inspector. The North Carolina State Electrical Code shall be enforced by the Electrical Inspector.

(B) Other duties and responsibilities of the Inspection Department and of the inspectors therein shall be to enforce within the town state and local laws relating to: the construction of buildings and other

structures; the installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems; the maintenance of buildings and other structures in a safe, sanitary, and healthful condition; and other matters that may be specified by the Town Council. These duties shall include the receipt of applications for permits and the issuance or denial of permits, the making of any necessary inspections in a timely manner, the issuance or denial of certificates of compliance, the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records, and any other actions that may be required in order adequately to enforce those laws. The Town Council shall have the authority to enact reasonable and appropriate provisions governing the enforcement of those laws.

(G.S. § 160A-412(a))

(C) Inspectors are also authorized, empowered, and directed to enforce all the provisions of this chapter and the regulatory codes herein adopted.

(D) Inspectors shall have the right of entry on any premises within the jurisdiction of the Inspection Department, at all reasonable hours, for the purpose of inspection or other enforcement action, upon presentation of proper credentials. (G.S. § 160A-420)

(E) Whenever any building or structure or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner or in substantial violation of any state or town building law, or in a manner that endangers life or property, the appropriate inspector may order the specific part of the work that is in violation or presents such a hazard to be immediately stopped. The stop order shall be in writing, directed to the person doing the work and shall state the specific work to be stopped, the specific reasons therefor, and the conditions under which the work may be resumed.

(1) The owner or builder may appeal from a stop order involving alleged violation of the State Building Code or any approved local modification thereof to the North Carolina Commissioner of Insurance or his designee within a period of five days after the order is issued. Notice of appeal shall be given in writing to the Commissioner of Insurance or his designee, with a copy to the Town Inspector. The Commissioner of Insurance or his designee shall promptly conduct a hearing at which the appellant and the Inspector shall be permitted to submit relevant evidence. The Commissioner of Insurance or his designee shall as expeditiously as possible provide a written statement of the decision setting forth the facts found, the decision reached, and the reasons for the decision. Pending the ruling by the Commissioner of Insurance or his designee on an appeal no further work shall take place in violation of a stop order. In the event of dissatisfaction with the decision, the person affected shall have the options of:

(a) Appealing to the Building Code Council; or

(b) Appealing to the Superior Court as provided in G.S. § 143-141.

(2) The owner or builder may appeal from a stop order involving alleged violation of a local zoning ordinance by giving notice of appeal in writing to the Board of Adjustment. The appeal shall be heard and decided within the period established by the ordinance, or if none is specified, within a reasonable time. No further work shall take place in violation of a stop order pending a ruling.

(3) Violation of a stop order shall constitute a Class 1 misdemeanor.
(G.S. § 160A-421) ('87 Code, § 150.51)

Statutory reference:

Duties and responsibilities, see G.S. § 160A-412

Failure to perform, see G.S. § 160A-416

§ 150.77 CONFLICTS OF INTEREST.

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

(G.S. § 160A-415) ('87 Code, § 150.52) Penalty, see § 150.99

§ 150.78 RECORDS AND REPORTS.

The Inspection Department shall keep complete and accurate records in convenient form of all applications received, permits issued, inspections and reinspections made, defects found, certificates of compliance granted, and all other work and activities of the Inspection Department. These records shall be kept in the manner and for the periods prescribed by the State Department of Cultural Resources. Periodic reports shall be submitted to the Town Council and to the State Commissioner of Insurance as they shall by ordinance, rule, or regulation require.

(G.S. § 160A-433) ('87 Code, § 150.53) Penalty, see § 150.99

§ 150.79 INSPECTION PROCEDURE.

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

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

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

(3) *Fireproofing inspection.* To be made after all areas required to be protected by fireproofing are lathed, but before the plastering or other fireproofing is applied.

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

(B) *Calls for inspection.* Request for inspections may be made to the office of the Inspection Department or to the appropriate inspector. The Inspection Department shall make inspections as soon as practicable after requests are made therefor, provided such work is ready for inspection at the time the request is made.

(1) Reinspections may be at the convenience of the Inspector. No work shall be inspected until it is in proper and completed condition ready for inspection. All work which has been concealed before the inspection and approval shall be uncovered at the request of the Inspector and placed in condition for proper inspection. Approval or rejection of the work shall be furnished by the appropriate inspector in the form of a notice posted on the building or given to the permit holder or his or her agent.

(2) Failure to call for inspections or proceeding without approval at each stage of construction shall be deemed a violation of this chapter.

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

(D) *Certificates of compliance.* At the conclusion of all work done under a permit, the appropriate inspector shall make a final inspection, and if he or she finds that the completed work complies with all applicable state and local laws and with the terms of the permit, he or she shall issue a certificate of compliance. 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 moved may be occupied, until the Inspection Department has issued a certificate of compliance. A temporary certificate of compliance may be issued permitting occupancy for a stated period of specified portions of the building that the Inspector finds may safely be occupied prior to final completion of the entire building. Violation of this section shall constitute a misdemeanor. (G.S. § 160A-423)

(E) *Periodic inspections.*

(1) The Inspection Department shall make periodic inspections, subject to the Board of Commissioner's directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in structures within its territorial jurisdiction. However, when the inspection department determines that a safety hazard exists in one of the dwelling units within a multi-family building, which in the opinion of the inspector poses an immediate threat to the occupant, the inspection department may inspect, in the absence of a specific complaint and actual knowledge of the unsafe condition, additional dwelling units in the multi-family building to determine if that same safety hazard exists. Except as provided in G.S. § 160A-424(b), the Inspection Department may make periodic inspections only when there is reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist in a residential building or structure. For purposes of this section, the term "reasonable cause" means any of the following:

(a) The property has a history of more than four verified violations of the housing ordinances or codes within a rolling 12-month period;

(b) There has been a complaint that substandard conditions exist within the building or there has been a request that the building be inspected;

(c) The inspection department has actual knowledge of an unsafe condition within the building; or

(d) Violations of the local ordinances or codes are visible from the outside of the property.

(2) In conducting inspections authorized under this section, the inspection department shall not discriminate between single-family and multi-family buildings or between owner-occupied and tenant-occupied buildings. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. Nothing in this section shall be construed to prohibit periodic inspections in accordance with State Fire Prevention Code or as otherwise required by state law.

(G.S. § 160A-424(a))

('87 Code, § 150.54)

Statutory reference:

Inspection of work in process, see G.S. § 160A-420

Certificates of compliance, see G.S. § 160A-423

§ 150.80 VIOLATIONS OF REGULATIONS NOT LEGALIZED BY OVERSIGHT OF INSPECTOR.

No oversight or dereliction of duty on the part of any inspector or other official or employee of the Inspection Department shall be deemed to legalize the violation of any provision of this chapter or any provision of any regulatory code herein adopted.

(‘87 Code, § 150.55)

§ 150.81 RIGHT TO APPEAL.

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

(G.S. § 160A-434) (‘87 Code, § 150.97)

§ 150.99 PENALTY.

(A) Whoever violates any provision of this chapter shall be subject to a fine of not more than \$50 or imprisonment for not more than 30 days. (‘87 Code, § 150.99)

(B) Whenever any violation is denominated a misdemeanor under the provisions of this chapter, the town, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved. (G.S. § 160A-432) (‘87 Code, § 150.98)

CHAPTER 151: MINIMUM HOUSING STANDARDS

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GENERAL PROVISIONS**§ 151.01 FINDING, PURPOSE.**

(A) Pursuant to G.S. § 160A-441, it is hereby found and declared that there exist in the town dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering such dwellings unsafe or unsanitary and dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the town.

(B) In order to protect the health, safety and welfare of the residents of the town as authorized by G.S. Chapter 160A, Article 19, Part 6, it is the purpose of this 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. § 160A-444.

(Ord. passed 9-2-97)

§ 151.02 DEFINITIONS.

(A) Whenever the words “dwelling, dwelling unit, rooming house, rooming unit or premises” are used in this chapter, they shall be construed as though they were followed by the words “or any part thereof.”

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

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

CELLAR. A portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

DETERIORATED. A dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this chapter at a cost not in excess of 50% of its value, as determined by finding of the Inspector.

DILAPIDATED. A dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this chapter at a cost not in excess of 50% of its value, as determined by finding of the Inspector.

DWELLING. Any building, including mobile or modular homes, which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided that temporary housing as hereinafter defined shall not be regarded as a **DWELLING**.

DWELLING UNIT. 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. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by other recognized and legal pest elimination methods approved by the Inspector.

GARBAGE. The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

HABITABLE ROOM. A room or enclosed floor space 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. The presence, within or around a dwelling, of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or to the public.

INSPECTOR. A Housing Inspector of the town or any agent of the *INSPECTOR* who is authorized by the *INSPECTOR*.

MULTIPLE DWELLING. Any dwelling containing more than two dwelling units.

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

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

OWNER. Any person who alone, jointly or severally with others:

(a) Shall have title to any dwelling or dwelling unit, with or without accompanying actual possession thereof or

(b) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or an executor, executrix, administrator, administratrix, trustee or guardian or the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter, and of rules and regulations adopted pursuant thereto, to the same extent as if he or she were the owner.

PLUMBING. Includes all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units, mechanical sink grinder, waste

pipes, water closets, sinks, installed clothes washing machines, catch basin, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

PUBLIC AUTHORITY. The town or any officer who is in charge of any department or branch of the government of the town or of Alamance County or the state of North Carolina relating to health, fire, building regulations or other activities concerning dwellings in the town.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

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

RUBBISH. Combustible and noncombustible waste materials except garbage and ashes, and the term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust.

SUPPLIED. Paid for, furnished or provided by, or under the control of, the owner or operator.

TEMPORARY HOUSING. 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. Conditions exist in a dwelling which substantially violates or does not comply with the minimum standards of fitness or requirements established by this chapter.

(Ord. passed 9-2-97)

REGULATIONS

§ 151.15 DWELLINGS AND DWELLING UNITS.

Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with the minimum standards of fitness for human habitation and the requirements of §§ 151.20 through 151.22 of this chapter. 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 the minimum standards of fitness for human habitation and the requirements of §§ 151.20 through 151.22 of this chapter.

(Ord. passed 9-2-97)

§ 151.16 STRUCTURAL CONDITION.

(A) Walls, partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, and shall not have holes or cracks which might admit rodents.

(B) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

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

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

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

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

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

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

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

(J) Mobile homes shall be underpinned.
(Ord. passed 9-2-97)

§ 151.17 BASIC EQUIPMENT AND FACILITIES.

(A) *Plumbing system.*

(1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system.

(2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet and adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

(3) All required plumbing fixtures shall meet the standards of the North Carolina Plumbing Code and shall be maintained in a state of good repair and in good working order.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub and 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 either subsection (1) or (2) below:

(1) *Central and electric heating systems.* Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 68°F measured at a point three feet above the floor during ordinary winter conditions.

(2) *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat all habitable rooms with a minimum temperature of 68°F measured three feet above the floor during ordinary winter conditions.

(C) *Electrical system.*

(1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor or wall-type electric convenience receptacles, connected in such manner as determined by the State Electric Code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor or wall-type electric convenience receptacles.

(2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.

(3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used and installed in accordance with the State Electrical Code.
(Ord. passed 9-2-97)

§ 151.18 VENTILATION.

(A) *General.* Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area measured between stops for every habitable room shall be 10% of the floor area of such room. Whenever walls or other portions of structures face a window or any room and such light obstructing structures are located less than five feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face

directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window, in the top of such room, the total window area of such skylight shall equal at least 15% of the total floor area of such room where windows are not practical, a habitable room must be equipped with a mechanical ventilation system which affords air and ventilation.

(B) *Habitable rooms.* Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 45% of the minimum window area size or minimum skylight-type window size as required, or shall have other approved, equivalent ventilation. (Ord. passed 9-2-97)

§ 151.19 SPACE, USE AND LOCATION.

(A) *Room sizes.* 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. In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 30 square feet of floor area for each occupant under 12 years of age.

(B) *Ceiling height.* At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet.

(C) *Floor area calculation.* Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as part of the floor area computing the total area of the room to determine maximum permissible occupancy.

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

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

(1) The floor and walls are substantially watertight.

(2) The total window area, mechanical ventilation system, total openable window area and ceiling height are equal to those required for habitable rooms.

(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.

(F) Any dwelling must have a minimum of 850 square feet of floor area.
(Ord. passed 9-2-97)

§ 151.20 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 kept in sound condition and good repair; shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

(B) *Interior floors, walls and ceilings.* Every floor, interior wall and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(C) *Windows and doors.* Every window, exterior door, basement or cellar door and hatchway shall be substantially weathertight, watertight and rodent proof and shall be kept in sound working condition and good repair.

(D) *Stairs, porches and appurtenances.* Every outside and inside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may 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 kept in sound condition and good repair.

(F) *Supplied facilities.* Every supplied facility, piece of equipment or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in a satisfactory working condition.

(G) *Drainage.* Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.

(H) *Noxious weeds.* Every yard and all exterior property areas shall be kept substantially free of species of weeds or plant growth which are noxious or detrimental to health.

(I) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by the North Carolina State Building Code.
(Ord. passed 9-2-97)

§ 151.21 CONTROL OF INSECTS, RODENTS AND INFESTATIONS.

(A) *Screens.* In every dwelling unit, for protection against mosquitoes, flies and other insects, all outside windows used for ventilation purposes and doors opening to the outside shall be adequately screened from April 15 to October 15.

(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 supplied with screens installed 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 insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his or her dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonably insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

(D) *Rubbish storage and disposal.* Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by town ordinances, and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

(Ord. passed 9-2-97)

§ 151.22 ROOMING HOUSES AND GROUP QUARTERS.

All of the provisions of this chapter and all of the minimum standards and requirements of this chapter shall be applicable to rooming houses and group quarters and to every person who operates a rooming house, group quarter or who occupies or lets to another for occupancy any rooming unit in any rooming house or group quarters, except as provided in the following divisions of this section:

(A) *Water closet, hand lavatory and bath facilities.* At least one water closet, lavatory basin and bathtub or shower properly connected to an approved water and sewer system and in good working condition shall be supplied for each four rooms within a rooming house or group quarters wherever said facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(B) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant

12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(C) *Sanitary conditions.* The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings and for the sanitary maintenance of every other part of the rooming house; and he or she shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house or group quarter is contained is leased or occupied by the operator.

(D) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin and bathtub or shower required by division (A) of this section shall be located within the rooming house and within a room or rooms which afford privacy and are separate from the habitable rooms and which are accessible from a common hall and without going outside the rooming house or through any other room therein.
(Ord. passed 9-2-97)

§ 151.23 RESPONSIBILITIES OF OWNERS 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 or she occupies and controls.

(C) *Rubbish and garbage.* Every occupant of a dwelling and dwelling unit shall dispose of all his or her rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases the owner shall be responsible for the availability of rubbish and garbage storage facilities.

(D) *Supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.

(E) *Care of facilities, equipment and structure.* No occupant shall willfully destroy, deface or impair any of the facilities or equipment or any part of the structure of a dwelling or dwelling unit.
(Ord. passed 9-2-97)

INSPECTIONS

§ 151.35 DUTIES OF HOUSING INSPECTOR.

(A) It shall be the duty of the Housing Inspector:

(1) To investigate the dwelling conditions and to inspect dwelling and dwelling units located in the town in order to determine which dwellings and dwelling units are unfit for human habitation and for the purpose of carrying out the objectives of this chapter with respect to such dwellings and dwelling units;

(2) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;

(3) To keep a record of the results of inspections made under this chapter and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed and,

(4) To perform such other duties as may be herein prescribed.

(B) The Housing Inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter, including the following powers in addition to others herein granted:

(1) To investigate the dwelling conditions in the town in order to determine which dwellings therein are unfit for human habitation;

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

(3) To enter upon premises for the purpose of making examinations and inspections; provided, such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession; and,

(4) To appoint and fix the duties of such officers, agents and employees as he or she deems necessary to carry out the purposes of this chapter.

(Ord. passed 9-2-97)

§ 151.36 DUTY OF OWNERS AND OCCUPANTS.

For the purpose of making inspections, the Inspector is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit or rooming unit, or the person in charge thereof, shall give the Inspector free access to such dwelling, dwelling unit or rooming unit and its premises at all reasonable times for the purposes of such inspection, examination and survey. Every occupant of a

dwelling or dwelling unit shall give the owner thereof, or his or her 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 chapter or with any lawful order issued pursuant to the provisions of this chapter.

(Ord. passed 9-2-97)

§ 151.37 CERTIFICATE OF OCCUPANCY.

(A) (1) Inspection of vacant units.

(a) In order to comply with the purposes of this code, the Inspector is hereby directed and authorized to inspect all dwelling units as they become vacant or at such time as the occupancy of the unit is changed; and should he or she find violations, it shall be his or her duty to proceed as under the terms of this code.

(b) That in order to aid the Inspector in determining the vacancy of dwelling units, the Water Department of the town and the Duke Power Company will make available daily reports of requests for meter disconnections, removals and changes in the meter registration. That prior to the reconnecting, reinstallation or meter registration change, a certificate of occupancy must be first issued by the Inspector.

(c) That in such cases where the owner is not the occupant of the dwelling unit but where the water or electrical meter is registered in the owner's name, the owner or his or her agent shall notify the Inspector at such time as the dwelling unit shall become vacant and secure a certificate of occupancy before the dwelling unit is reoccupied.

(d) That in such cases where there are neither water nor light connections in the dwelling unit, the owner or his or her agent shall notify the Inspector at such time as the dwelling unit shall become vacant and secure a certificate of occupancy before the dwelling unit is reoccupied. The restrictions and certificates in this division (A)(1) apply to housing only.

(2) Procedure for certificate of occupancy.

(a) *Criteria for issuance.* In order to receive a certificate of occupancy, the owner or his or her authorized agent must show that his or her building and/or use is in compliance with the applicable codes and any other applicable laws.

(b) *Temporary certificate.* A temporary or limited certificate may be issued when the building is incomplete or compliance with minor requirements is delayed or for other reasons as long as safety to the occupants is secured. The time limit on the certificate will depend on individual circumstances.

(c) *Revocation.* The certificate may be revoked when:

1. Materially false information is given on the application.
2. Unsafe or unlawful conditions of building, occupancy or use resulting from:
 - a. Physical conditions of the building, premises, its systems or facilities.
 - b. Occupancy or use inconsistent with the building design and/or construction as required by the Building Code.
 - c. Violation of Zoning Ordinances.
3. The certificate has been issued in error.
4. Violations of Subdivision Ordinances.
5. Violations of Health Department laws.

(B) A certificate of occupancy issued by the Building Official is required in advance of:

- (1) Occupancy or use of a building hereafter erected, altered or moved; or
- (2) Change of use of any building or land.

(3) A certificate of occupancy, either for the whole or a part of a building, shall be applied for coincident with the application for a building permit and shall be issued within ten days after the erection or structural alteration of such building or part shall have been completed in conformity with the provisions of this chapter. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this chapter. If the certificate of occupancy is denied, the Building Official shall state in writing the reasons for refusal, and the applicant shall be notified of the refusal. A record of all certificates shall be kept on file in the Town Hall.

(Ord. passed 9-2-97)

ADMINISTRATION AND ENFORCEMENT

§ 151.50 PROCEDURE FOR ENFORCEMENT.

(A) *Preliminary investigation; notice hearing.* Whenever a petition is filed with the Inspector by a public authority or by at least five residents of the town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he or she shall, if his or her preliminary investigation disclose a basis for such charges and containing a notice that a hearing will be held before the Inspector

at a place therein fixed not less than ten nor more than 30 days after the serving of said complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such 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 Inspector.

(B) *Procedure after hearing.* After such notice and hearing, the Inspector shall state in writing his or her determination whether such dwelling or dwelling unit is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated. If the Inspector determines that the dwelling or dwelling unit is deteriorated, he or she shall state in writing his or her 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 and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter within a specified period of time not to exceed 90 days. 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. If the Inspector determines that the dwelling is dilapidated, he or she shall state in writing his or her findings of fact to support such determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter, or else vacate and remove or demolish the same within a specified period of time not to exceed 90 days.

(C) *Failure to comply with order.*

(1) *In personam remedy.* If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter or improve or to vacate and close the same within the time specified therein, or if the owner of a dilapidated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter or improve or to vacate and close and remove or demolish the same within the time specified therein, the Inspector shall submit to the Town Council at its next regular meeting a resolution directing the Town Attorney to petition the superior court for an order directing such owner to comply with the order of the Inspector, as authorized by G.S. § 160A-446(g).

(2) *In rem remedy.* After failure of an owner of a deteriorated or dilapidated dwelling or dwelling unit to comply with an order of the Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in subsection (1), the Inspector shall submit to the Town Council an ordinance ordering the Inspector to cause such dwelling or dwelling unit to be repaired, altered, improved, vacated, closed, removed or demolished, as provided in the original order of the Inspector, and pending removal or demolition, to place a placard on such dwelling as provided by G.S. § 160A-443 and this section.

(D) *Appeals for orders of Inspector.* An appeal from any decision or order of the Inspector may be taken by any person aggrieved thereby. Any appeal from the Inspector shall be taken within ten days from the rendering of the decision or service of the order and shall be taken by filing with the Inspector

and with the Town of Haw River 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 Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When appeal is from a decision of the Inspector refusing to allow the person aggrieved thereby to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Inspector certifies to the Board, after the notice of appeal is filed with him or her that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his or her requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order which may be granted for due cause shown upon not less than one days written notice to the Inspector, by the Board, or by a court of record upon petition made pursuant to G.S. § 160A-446(f) and division (D) of this section. The Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Inspector, but the concurring vote of five members of the Board shall be necessary to reverse or modify decision or order of the Inspector. The Board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of 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 Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.

(E) *Petition to Superior Court by owner.* Any person aggrieved by an order issued by the Inspector or a decision rendered by the Board shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the Superior Court for a temporary injunction restraining the Inspector pending a final disposition of the cause, as provided by G.S. § 160-446(f).
(Ord. passed 9-2-97)

§ 151.51 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by the Inspector shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the Inspector in the exercise of reasonable diligence, the Inspector shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing the name once each week for two successive weeks in a newspaper circulating in the town. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.
(Ord. passed 9-2-97)

§ 151.52 IN REM ACTION BY INSPECTOR; PLACARDING.

(A) After failure of an owner of a dwelling or dwelling unit to comply with an order of the Inspector issued pursuant to the provisions of this chapter, and upon adoption by the Town Council of an ordinance authorizing and directing him or her to do so as provided by G.S. § 160A-443 (5) and § 151.50(C)(2) of this chapter, the Inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this chapter, or to be vacated and closed and removed or demolished, as directed by the ordinance of the Town Council and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a misdemeanor.

(B) Each such ordinance shall be recorded in the office of the Register of Deeds in the county wherein the property is located and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. § 160A-443 (5).

(Ord. passed 9-2-97)

§ 151.53 COSTS, LIEN ON PREMISES.

As provided by G.S. § 160A-443(6), the amount of the cost of any repairs, alterations or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the Inspector pursuant to § 151.52 of this chapter shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. Chapter 160A, Article 10.

(Ord. passed 9-2-97)

§ 151.54 ALTERNATIVE REMEDIES.

Neither this chapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this chapter by criminal process as authorized by G.S. § 14-4 and § 151.56 of this chapter and the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

(Ord. passed 9-2-97)

§ 151.55 CONFLICTS.

In the event any provision, standard or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the town, the provision which established the higher

standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.

(Ord. passed 9-2-97)

§ 151.56 VIOLATIONS.

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

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

(Ord. passed 9-2-97)

CHAPTER 152: FLOOD DAMAGE PREVENTION

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GENERAL PROVISIONS**§ 152.01 STATUTORY AUTHORIZATION.**

The legislature of the state has in G.S. Ch. 143, Art. 21, Part 6; Ch. 160A, Art. 19, Parts 3, 5, and 8; and Ch. 160A, Art. 8, delegated to local government the responsibility units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town Council does ordain this chapter.

(Ord. passed 8-7-06)

§ 152.02 FINDINGS OF FACT.

(A) The flood-prone areas within the jurisdiction of the town are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood-prone areas of uses vulnerable to floods or other hazards.

(Ord. passed 8-7-06)

§ 152.03 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood-prone areas by provisions designed to:

(A) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

(B) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(D) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

(E) Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.
(Ord. passed 8-7-06)

§ 152.04 OBJECTIVES.

The objectives of this chapter are:

(A) To protect human life and health;

(B) To minimize expenditure of public money for costly flood control projects;

(C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) To minimize prolonged business losses and interruptions;

(E) To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges that are located in flood-prone areas;

(F) To help maintain a stable tax base by providing for the sound use and development of flood-prone areas; and

(G) To ensure that potential buyers are aware that property is in a special flood hazard area.
(Ord. passed 8-7-06)

§ 152.05 DEFINITIONS.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

ACCESSORY STRUCTURE (APPURTENANT STRUCTURE). A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

ADDITION (TO AN EXISTING BUILDING). An extension or increase in the floor area or height of a building or structure.

APPEAL. A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

AREA OF SHALLOW FLOODING. A designated AO Zone on a community's flood insurance rate map (FIRM) with base flood depths determined to be from one to three feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD. See **SPECIAL FLOOD HAZARD AREA (SFHA)**.

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

BASE FLOOD ELEVATION (BFE). A determination of the water surface elevations of the base flood as published in the flood insurance study. When the BFE has not been provided in a special flood hazard area, it may be obtained from engineering studies available from a federal or state or other source using FEMA-approved engineering methodologies. This elevation, when combined with the freeboard, establishes the regulatory flood protection elevation.

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

BUILDING. See **STRUCTURE**.

CHEMICAL STORAGE FACILITY. A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

DISPOSAL. As defined in G.S. § 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

ELEVATED BUILDING. A nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

ENCROACHMENT. The advance or infringement of uses, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

EXISTING MANUFACTURED HOME PARK or MANUFACTURED HOME SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities,

the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the community.

***FLOOD* or *FLOODING*.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

***FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)*.** An official map of a community, issued by the Federal Emergency Management Agency, on which the special flood hazard areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the flood insurance rate map (FIRM).

***FLOOD HAZARD BOUNDARY MAP (FHBM)*.** An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the special flood hazard areas have been defined as Zone A.

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

***FLOOD INSURANCE RATE MAP (FIRM)*.** An official map of a community, issued by the Federal Emergency Management Agency, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

FLOOD INSURANCE STUDY (FIS)*.** An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The ***FLOOD INSURANCE STUDY report includes flood insurance rate maps (FIRMs) and flood boundary and floodway maps (FBFMs), if published.

FLOOD-PRONE AREA*.** See ***FLOODPLAIN.

***FLOOD-PROOFING*.** Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

***FLOOD ZONE*.** A geographical area shown on a flood hazard boundary map or flood insurance rate map that reflects the severity or type of flooding in the area.

***FLOODPLAIN*.** Any land area susceptible to being inundated by water from any source.

FLOODPLAIN ADMINISTRATOR. The individual appointed to administer and enforce the floodplain management regulations.

FLOODPLAIN DEVELOPMENT PERMIT. Any type of permit that is required in conformance with the provisions of this chapter, prior to the commencement of any development activity.

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

FLOODPLAIN MANAGEMENT REGULATIONS. This chapter and other zoning ordinances, subdivision regulations, building code, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

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

FREEBOARD. The height added to the base flood elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization on the watershed. The base flood elevation plus the freeboard establishes the regulatory flood protection elevation.

FUNCTIONALLY DEPENDENT FACILITY. A facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

HAZARDOUS WASTE FACILITY. As defined in G.S. Ch. 130A, Art. 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

HIGHEST ADJACENT GRADE (HAG). The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

HISTORIC STRUCTURE. Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a local inventory of historic landmarks in communities with a certified local government (CLG) program; or

(4) Certified as contributing to the historical significance of a historic district designated by a community with a certified local government (CLG) program.

Certified local government (CLG) programs are approved by the U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

LOWEST ADJACENT GRADE (LAG). The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

LOWEST FLOOR. Lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's ***LOWEST FLOOR***, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term ***MANUFACTURED HOME*** does not include a recreational vehicle.

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARKET VALUE. The building value, not including the land value and that of any accessory structures or other improvements on the lot. ***MARKET VALUE*** may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (actual cash value); or adjusted tax assessed values.

MEAN SEA LEVEL. For purposes of this chapter, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which base flood elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of the original version of this chapter and includes any subsequent improvements to such structures.

NON-ENCROACHMENT AREA. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the flood insurance study report.

POST-FIRM. Construction or other development for which the start of construction occurred on or after the effective date of the initial flood insurance rate map for the area.

PRE-FIRM. Construction or other development for which the start of construction occurred before the effective date of the initial flood insurance rate map for the area.

PRINCIPALLY ABOVE GROUND. At least 51 % of the actual cash value of the structure is above ground.

PUBLIC SAFETY AND/OR NUISANCE. Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

RECREATIONAL VEHICLE (RV). A vehicle, which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

REFERENCE LEVEL. The top of the lowest floor for structures within special flood hazard areas designated as Zone A1-A30, AE, A, A99 or AO.

REGULATORY FLOOD PROTECTION ELEVATION. The base flood elevation plus the freeboard. In special flood hazard areas where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet of freeboard. In special flood hazard areas where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.

REMEDY A VIOLATION. To bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected

development from flood damages, implementing the enforcement provisions of this chapter or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

RIVERINE. Relating to, formed by, or resembling a river, including tributaries, streams, brooks, and the like.

SALVAGE YARD. Any nonresidential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

SOLID WASTE DISPOSAL FACILITY. As defined in G.S. § 130A-290(a)(35), any facility involved in the disposal of solid waste.

SOLID WASTE DISPOSAL SITE. As defined in G.S. § 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

SPECIAL FLOOD HAZARD AREA (SFHA). The land in the floodplain subject to a 1 % or greater chance of being flooded in any given year, as determined in § 152.07.

START OF CONSTRUCTION. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual **START OF CONSTRUCTION** means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See definition of substantial improvement.

SUBSTANTIAL IMPROVEMENT. Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost

equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

VARIANCE. A grant of relief from the requirements of this chapter.

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION (WSE). The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

WATERCOURSE. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. **WATERCOURSE** includes specifically designated areas in which substantial flood damage may occur.

(Ord. passed 8-7-06)

§ 152.06 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all special flood hazard areas within the jurisdiction, including extra-territorial jurisdictions (ETJ) if applicable, of the town and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

(Ord. passed 8-7-06)

§ 152.07 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The special flood hazard areas are those identified under the cooperating technical state (CTS) agreement between the state and FEMA in its flood insurance study (FIS) and its accompanying flood insurance rate maps (FIRM), for Alamance County dated September 6, 2006, which are adopted by reference and declared to be a part of this chapter.

(Ord. passed 8-7-06)

§ 152.08 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within special flood hazard areas determined in accordance with § 152.07.

(Ord. passed 8-7-06) Penalty, see § 152.99

§ 152.09 COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this chapter and other applicable regulations.

(Ord. passed 8-7-06) Penalty, see § 152.99

§ 152.10 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. passed 8-7-06)

§ 152.11 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the governing body; and

(C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. passed 8-7-06)

§ 152.12 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding

or flood damages. This chapter shall not create liability on the part of the town or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. passed 8-7-06)

§ 152.13 EFFECT ON RIGHTS AND LIABILITIES.

This chapter in part comes forward by re-enactment of some of the provisions of the flood damage prevention chapter enacted November 2, 1987 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this chapter shall not affect any action, suit or proceeding instituted or pending. All provisions of this chapter enacted on November 2, 1987, as amended, which are not reenacted herein are repealed.

(Ord. passed 8-7-06)

§ 152.14 EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this chapter; provided, however, that when construction is not begun under such outstanding permit within a period of six months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this chapter.

(Ord. passed 8-7-06)

ADMINISTRATION

§ 152.25 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The County Building Inspector, hereinafter referred to as the Floodplain Administrator, is hereby appointed to administer and implement the provisions of this chapter.

(Ord. passed 8-7-06)

§ 152.26 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

(A) *Application requirements.* Application for a floodplain development permit shall be made to the Floodplain Administrator prior to any development activities located within special flood hazard

areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

(1) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

(a) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

(b) The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in § 152.07, or a statement that the entire lot is within the special flood hazard area;

(c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in § 152.07;

(d) The boundary of the floodway(s) or non-encroachment area(s) as determined in § 152.07;

(e) The base flood elevation (BFE) where provided as set forth in § 152.07; § 152.27(K) and (L); or § 152.43;

(f) The old and new location of any watercourse that will be altered or relocated as a result of proposed development;

(g) Certification of the plot plan by a registered land surveyor or professional engineer.

(2) Proposed elevation, and method thereof, of all development within a special flood hazard area including but not limited to:

(a) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;

(b) Elevation in relation to mean sea level to which any nonresidential structure in Zone AE, A or AO will be flood-proofed; and

(c) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or flood-proofed.

(3) If flood-proofing, a flood-proofing certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of flood-proofing measures.

(4) A foundation plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this chapter are met. These details include but are not limited to:

(a) The proposed method of elevation, if applicable, such as fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls;

(b) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with § 152.41(D)(3), when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30.

(5) Usage details of any enclosed areas below the regulatory flood protection elevation.

(6) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

(7) Copies of all other local, state and federal permits required prior to floodplain development permit issuance (wetlands, endangered species, erosion and sedimentation control, riparian buffers, mining, and the like).

(8) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure § 152.41(F) and (G) of this chapter are met.

(9) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(B) *Permit requirements.* The floodplain development permit shall include, but not be limited to:

(1) A description of the development to be permitted under the floodplain development permit.

(2) The special flood hazard area determination for the proposed development per available data specified in § 152.07.

(3) The regulatory flood protection elevation required for the reference level and all attendant utilities.

(4) The regulatory flood protection elevation required for the protection of all public utilities.

(5) All certification submittal requirements with timelines.

(6) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.

(7) The flood openings requirements, if in Zones A, AO, AE or A1-30.

(C) *Certification requirements.*

(1) *Elevation certificates.*

(a) An elevation certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

(b) An elevation certificate (FEMA Form 81-31) is required after the reference level is established. Within seven calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

(c) A final as-built elevation certificate (FEMA Form 81-31) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(2) *Flood-proofing certificate.* If nonresidential flood-proofing is used to meet the regulatory flood protection elevation requirements, a flood-proofing certificate (FEMA Form 81-65), with supporting data and an operational plan, is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the flood-proofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Flood-proofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data and plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit

approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(3) If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per § 152.41(C).

(4) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(5) *Certification exemptions.* The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/flood-proofing certification requirements specified in divisions (C)(1) and (2):

(a) Recreational vehicles meeting requirements of § 152.41(F)(1);

(b) Temporary structures meeting requirements of § 152.41(G); and

(c) Accessory structures less than 150 square feet meeting requirements of § 152.41(H).
(Ord. passed 8-7-06) Penalty, see § 152.99

§ 152.27 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The Floodplain Administrator shall perform, but not be limited to, the following duties:

(A) Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to assure that the requirements of this chapter have been satisfied.

(B) Advise permittee that additional federal or state permits (wetlands, endangered species, erosion and sedimentation control, riparian buffers, mining, and the like) may be required, and require that copies of such permits be provided and maintained on file with the floodplain development permit.

(C) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the national flood insurance program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

(D) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(E) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of § 152.44 are met.

(F) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with § 152.26(C).

(G) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been flood-proofed, in accordance with § 152.26(C).

(H) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with § 152.26(C).

(I) When flood-proofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with §§ 152.26(C) and 152.41(B).

(J) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.

(K) When base flood elevation (BFE) data has not been provided in accordance with § 152.07, obtain, review, and reasonably utilize any base flood elevation (BFE) data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to § 152.43(B)(2), in order to administer the provisions of this chapter.

(L) When base flood elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with § 152.07, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this chapter.

(M) When the lowest ground elevation of a parcel or structure in a special flood hazard area is above the base flood elevation, advise the property owner of the option to apply for a letter of map amendment (LOMA) from FEMA. Maintain a copy of the letter of map amendment (LOMA) issued by FEMA in the floodplain development permit file.

(N) Permanently maintain all records that pertain to the administration of this chapter and make these records available for public inspection.

(O) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

(P) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this chapter, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(Q) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(R) Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(S) Follow through with corrective procedures of § 152.28.

(T) Review, provide input, and make recommendations for variance requests.

(U) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with § 152.07 of this chapter, including any revisions thereto including letters of map change, issued by FEMA. Notify state and FEMA of mapping needs.

(V) Coordinate revisions to FIS reports and FIRMs, including letters of map revision based on fill (LOMR-F) and letters of map revision (LOMR).
(Ord. passed 8-7-06)

§ 152.28 CORRECTIVE PROCEDURES.

(A) *Violations to be corrected.* When the Floodplain Administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(B) *Actions in event of failure to take corrective action.* If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

(1) That the building or property is in violation of this chapter;

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

(3) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

(C) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of this chapter, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.

(D) *Appeal.* Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(E) *Failure to comply with order.* If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

(Ord. passed 8-7-06) Penalty, see § 152.99

§ 152.29 VARIANCE PROCEDURES.

(A) The Board of Adjustment, hereinafter referred to as the Appeal Board, shall hear and decide requests for variances from the requirements of this chapter.

(B) Any person aggrieved by the decision of the Appeal Board may appeal such decision to the Court, as provided in G.S. Chapter 7A.

(C) Variances may be issued for:

(1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.

(2) Functionally dependant facilities if determined to meet the definition as stated in § 152.05 of this chapter, provided provisions of § 152.29(I)(2), (3), and (5) have been satisfied, and such facilities are protected by methods that minimize flood damages.

(3) Any other type of development, provided it meets the requirements stated in this section.

(D) In passing upon variances, the Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location as defined under § 152.05 of this chapter as a functionally dependant facility, where applicable;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(E) A written report addressing each of the above factors shall be submitted with the application for a variance.

(F) Upon consideration of the factors listed above and the purposes of this chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(G) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and that such construction below the base flood elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(H) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the state upon request.

(I) *Conditions for variances:*

(1) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.

(2) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances shall only be issued prior to development permit approval.

(5) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship;

and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(J) A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following conditions are met.

(1) The use serves a critical need in the community.

(2) No feasible location exists for the use outside the special flood hazard area.

(3) The reference level of any structure is elevated or flood-proofed to at least the regulatory flood protection elevation.

(4) The use complies with all other applicable federal, state and local laws.

(5) The town has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

(Ord. passed 8-7-06)

FLOOD HAZARD REDUCTION

§ 152.40 GENERAL STANDARDS.

In all special flood hazard areas the following provisions are required:

(A) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

(B) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(C) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(D) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within

the components during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, and the like), hot water heaters, and electric outlets/switches.

(E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(G) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(H) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this chapter, shall meet the requirements of new construction as contained in this chapter.

(I) Nothing in this chapter shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this chapter and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this chapter.

(J) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in § 152.29(J). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a special flood hazard area only if the structure or tank is either elevated or flood-proofed to at least the regulatory flood protection elevation and certified according to § 152.26(C) of this chapter.

(K) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(L) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(M) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(N) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(Ord. passed 8-7-06) Penalty, see § 152.99

§ 152.41 SPECIFIC STANDARDS.

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in § 152.07, or § 152.27(K) and (L), the following provisions, in addition to § 152.40, are required:

(A) *Residential construction.* New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 152.05 of this chapter.

(B) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 152.05 of this chapter. Structures located in A, AE and A1-30 Zones may be flood-proofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the flood-proofing elevation shall be in accordance with § 152.46(C). A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in § 152.26(C), along with the operational and maintenance plans.

(C) *Manufactured homes.*

(1) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in § 152.05 of this chapter.

(2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the state of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to G.S. § 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

(3) All enclosures or skirting below the lowest floor shall meet the requirements of § 152.41(D)(1), (2), and (3).

(4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood-prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

(D) *Elevated buildings.* Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

(1) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

(2) Shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation;

(3) Shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria;

(a) A minimum of two flood openings on different sides of each enclosed area subject to flooding;

(b) The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;

(c) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

(d) The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;

(e) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

(f) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined in this division.

(E) *Additions/improvements.*

(1) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(a) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more nonconforming than the existing structure.

(b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(2) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

(3) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(a) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

(b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(4) Where an independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.

(F) *Recreational vehicles.* Recreational vehicles shall either:

(1) Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

(2) Meet all the requirements for new construction.

(G) *Temporary nonresidential structures.* Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning

notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

- (1) A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;
- (2) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
- (3) The time frame prior to the event at which a structure will be removed (such as a minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
- (4) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
- (5) Designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.

(H) *Accessory structures.* When accessory structures (sheds, detached garages, and the like) are to be placed within a special flood hazard area, the following criteria shall be met:

- (1) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
 - (2) Accessory structures shall not be temperature-controlled;
 - (3) Accessory structures shall be designed to have low flood damage potential;
 - (4) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - (5) Accessory structures shall be firmly anchored in accordance with § 152.40(A);
 - (6) All service facilities such as electrical shall be installed in accordance with § 152.40(D);
- and
- (7) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with § 152.41(D)(3).

(8) An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or flood-proofing certificate. Elevation or flood-proofing certifications are required for all other accessory structures in accordance with § 152.26(C).
(Ord. passed 8-7-06) Penalty, see § 152.99

§ 152.42 [RESERVED]**§ 152.43 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.**

Within the special flood hazard areas designated as Approximate Zone A and established in § 152.07, where no base flood elevation (BFE) data has been provided by FEMA, the following provisions, in addition to §§ 152.40 and 152.41, shall apply:

(A) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of 20 feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:

(1) If base flood elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this chapter and shall be elevated or flood-proofed in accordance with standards in § 152.27(K) and (L).

(2) All subdivision, manufactured home park and other development proposals shall provide base flood elevation (BFE) data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such base flood elevation (BFE) data shall be adopted by reference per § 152.07 to be utilized in implementing this chapter.

(3) When base flood elevation (BFE) data is not available from a federal, state, or other source as outlined above, the reference level shall be elevated to or above the regulatory flood protection elevation, as defined in § 152.05.

(Ord. passed 8-7-06) Penalty, see § 152.99

§ 152.44 STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

Along rivers and streams where BFE data is provided but neither floodway nor non-encroachment areas are identified for a special flood hazard area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

(A) Standards outlined in §§ 152.40 and 152.41; and

(B) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(Ord. passed 8-7-06) Penalty, see § 152.99

§ 152.45 FLOODWAYS AND NON-ENCROACHMENT AREAS.

(A) Areas designated as floodways or non-encroachment areas are located within the special flood hazard areas established in § 152.07. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in §§ 152.40 and 152.41, shall apply to all development within such areas:

(B) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated that:

(1) The proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or

(2) A conditional letter of map revision (CLOMR) has been approved by FEMA. A letter of map revision (LOMR) must also be obtained upon completion of the proposed encroachment.

(C) If § 152.45(A) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this chapter.

(D) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

(1) The anchoring and the elevation standards of § 152.41(C); and

(2) The no encroachment standard of § 152.45(A).

(Ord. passed 8-7-06) Penalty, see § 152.99

§ 152.46 STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).

Located within the special flood hazard areas established in § 152.07, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to the requirements of § 152.40, all new construction and substantial improvements shall meet the following requirements:

(A) The reference level shall be elevated at least as high as the depth number specified on the flood insurance rate map (FIRM), in feet, plus a freeboard of two feet, above the highest adjacent grade; or at least two feet above the highest adjacent grade plus a freeboard of two feet if no depth number is specified.

(B) Nonresidential structures may, in lieu of elevation, be flood-proofed to the same level as required in § 152.46(A) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as per §§ 152.26(C) and 152.41(B).

(C) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

(Ord. passed 8-7-06) Penalty, see § 152.99

§ 152.99 PENALTY.

(A) Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50 or imprisoned for not more than 30 days, or both.

(B) Each day such violation continues shall be considered a separate offense.

(C) Nothing herein contained shall prevent the Town Council from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. passed 8-7-06)

CHAPTER 153: MANUFACTURED HOMES

Section

- 153.01 Purpose
- 153.02 Definitions
- 153.03 Manufactured home to be contained within manufactured home park
- 153.04 Application for manufactured home park permit
- 153.05 Manufactured home park plan
- 153.06 General requirements for manufactured home parks
- 153.07 Existing manufactured home parks

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§ 153.01 PURPOSE.

The purpose of this chapter is to provide areas within the corporate and extraterritorial limits of the town for development of manufactured home parks. These areas should be so developed as to provide safe and sanitary living conditions for park occupants and to be convenient to employment, shopping centers, schools, and other community facilities. The regulations set forth in this chapter are designed to provide for planned manufactured home park development.

(‘87 Code, § 152.01) (Ord. passed 8-5-74; Am. Ord. passed 1-8-86; Am. Ord. passed 5-1-00)

§ 153.02 DEFINITIONS.

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

DEVELOPER. Any person, firm, trust, partnership, association, or corporation engaged in development or proposed development of a manufactured home park.

MANUFACTURED HOME. A dwelling that:

- (1) Is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own permanent chassis;
- (2) Exceeds 40 feet in length and eight feet in width;

(3) Is constructed in accordance with the National Manufactured Home Construction and Safety Standards; and

(4) Is not constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for One- and Two-Family Dwellings. The term does not include recreational vehicles.

(a) *Class A.* A manufactured home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following additional criteria:

1. Is occupied only as a single-family dwelling.
2. Has a length not exceeding four times its width, with length measured along the longest axis and width measured perpendicular to the longest axis at the narrowest part.
3. Has a minimum of 800 square feet of enclosed and heated living area.
4. Has exterior siding, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction, consisting of one or more of the following: vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint); cedar or other wood siding; wood grain, weather resistant press board siding; stucco siding; or brick or stone siding.
5. Has a roof pitch minimum vertical rise of three feet for each 12 feet of horizontal run.
6. All roof structures shall provide an eave projection of no less than six inches, which may include a gutter.
7. Stairs, porches, entrance platforms, ramps, and other means of entrance and exit are installed or constructed in accordance with the standards set by the North Carolina State Building Code, attached firmly to the primary structure and anchored securely to the ground. Stairs shall be used in conjunction with a porch or entrance platform with a minimum of 24 square feet.

(b) *Class B.* A manufactured dwelling constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that meet or exceed criteria (7) for Class A manufactured homes above.

(c) *Class C.* Any manufactured dwelling that does not meet the definitional criteria of a Class A or Class B manufactured dwelling above.

MANUFACTURED HOME PARK. Any site or tract of land upon which two or more manufactured homes occupied for dwelling or sleeping purposes are located, regardless of whether a charge is made for this service.

MANUFACTURED HOME PARK PLAN. A plan prepared showing all existing conditions and the proposed site development.

MANUFACTURED HOME PARK PERMIT. A permit issued by the Building Inspector upon direction of the Town Council to a developer for construction, operation, or alteration of a manufactured home park. The permit shall be issued only after review of and recommendations on all plans by the Planning Board. If the Planning Board does not act within 45 days, their approval of the plan is implied.

MANUFACTURED HOME SPACE. A plot of ground within a manufactured home park designed for the accommodation of one manufactured home in accordance with the requirements set forth in this chapter.

NATURAL OR ARTIFICIAL BARRIER. Any river, pond, canal, roadway, railroad, levee, embankment, fence, hedge, tree row, or similar obstruction which limits access or visibility.

PERMITTEE. Any person to whom a special use permit is issued to maintain or operate a manufactured home park under the provisions of this chapter.

STRUCTURAL ADDITIONS . Any roofed, canopied, enclosed porch, room, or structure which is used in connection with the manufactured home. A concrete slab porch, with no walls or roof, shall not be considered a **STRUCTURAL ADDITION**.

('87 Code, § 152.02) (Ord. passed 8-5-74; Am. Ord. passed 5-1-00)

§ 153.03 MANUFACTURED HOME TO BE CONTAINED WITHIN MANUFACTURED HOME PARK.

It shall be unlawful for any person to place or maintain any manufactured home for living or sleeping purposes on any premises of the town unless it is contained within a manufactured home park which complies with the provisions of this chapter and all other ordinances of the town.

('87 Code, § 152.03) (Ord. passed 8-5-74; Am. Ord. passed 5-1-00) Penalty, see § 153.99

§ 153.04 APPLICATION FOR MANUFACTURED HOME PARK PERMIT.

(A) An application for a manufactured home park permit and all accompanying plans and supporting data shall be filed in triplicate with the Planning Board at least two weeks prior to a regular meeting of the Board. The application shall be in writing, signed by the applicant, and shall include the following:

- (1) The name and address of the applicant.

(2) The location and description of the boundaries of the property.

(3) A complete manufactured home park plan showing all existing conditions and proposed site development as required in § 153.05, including preliminary plans of all buildings, improvements, and facilities constructed or to be constructed within the manufactured home park.

(4) Any other information requested by the Planning Board to determine the proposed park's compliance with legal requirements, the effect which the proposed park may have on its environment, and the compatibility of the adjacent area for park development within the framework of long-range land development objectives.

(B) Any expenses incurred in preparation of a manufactured home park plan and supporting information and data shall be borne by the applicant.

(C) If the proposed manufactured home park conforms to the terms of this chapter, the Planning Board shall approve it and recommend that the Town Council direct issuance of a manufactured home park permit.

('87 Code, § 152.04) (Ord. passed 8-5-74; Am. Ord. passed 5-1-00)

§ 153.05 MANUFACTURED HOME PARK PLAN.

(A) The manufactured home park plan shall show or propose all requirements listed in this section. In addition, upon issuance of a manufactured home park permit, all of these requirements shall be complied with before an occupancy permit is issued.

(1) All manufactured home parks shall be developed on a parcel of land not less than six acres in size and shall contain no more than five manufactured homes per gross acre.

(2) Each manufactured home space shall consist of a minimum of 8,000 square feet and a minimum width of 50 feet frontage on a driveway, unless the lot is within a curve or cul-de-sac where the lot square footage is 8,000 square feet. In these instances, the minimum lot width is 40 feet.

(3) Manufactured homes shall be parked one to a space. Manufactured homes and structural additions thereto shall not be placed closer than 20 feet to a driveway or public street; nor shall they be placed closer than ten feet to any boundary of a manufactured home space; nor shall they be placed closer than 20 feet to any building; nor shall they be placed closer than 20 feet to any adjacent property used for, zoned for, or to be used for single-family dwelling purposes; nor shall they be placed closer than 15 feet to any adjacent property used for, zoned for, or to be used for other than single-family dwelling purposes.

(4) The park shall be located on a well-drained and properly graded site.

(5) All manufactured home spaces shall abut on an interior driveway of no less than 20 feet in width which shall have unobstructed access to a public street or highway and shall be constructed of concrete, asphalt, gravel, crushed stone, macadam, or marl and treated with dust-preventative materials and be properly maintained at all times. Walkways at least four feet wide shall be provided to permit reasonable direct access to service buildings. All main walks shall be continuous and constructed of concrete, asphalt, or fine stone, providing a safe, stable footing.

(6) Each manufactured home space shall be provided with at least two off-drive parking spaces. These spaces shall be no farther away than 50 feet from it. In addition, there shall be provided one off-drive parking space for each two manufactured home spaces in the manufactured home park. Each off-drive parking space shall be at least nine feet wide and at least 20 feet long. No automobile parking shall be allowed in other than the parking areas specified in the manufactured home park plan, and areas so specified shall be off the drive.

(B) When an arrangement other than that specified by division (A)(3) of this section can be shown to provide more useful open space without infringing upon the privacy of manufactured home dwellers or neighboring property owners, or when screening devices can be shown to compensate for any slight reductions in space between manufactured home spaces or space between a manufactured home space and another building or property, the Planning Board may recommend approval of a manufactured home park permit if, in its opinion, the manufactured home park plan submitted is equal to or better than an arrangement which would conform to division (A)(3) of this section. In this case, the manufactured home park plan shall be forwarded to the Town Council with a favorable recommendation for approval by the Town Council.

(C) All existing manufactured home parks at the time of adoption of amendments so specified above shall be exempt from the terms of divisions (A)(1) and (A)(2), but all manufactured home parks constructed after the adoption date shall comply with the terms of divisions (A)(1) and (A)(2) notwithstanding the requirements so stipulated under § 153.07.

('87 Code, § 152.05) (Ord. passed 8-5-74; Am. Ord. passed 1-9-86; Am. Ord. passed 5-1-00)) Penalty, see § 153.99

§ 153.06 GENERAL REQUIREMENTS FOR MANUFACTURED HOME PARKS.

(A) *Minimum size of manufactured homes.* No manufactured home placed in a manufactured home park shall have less than 800 square feet of interior floor space or fail to contain a built-in bathroom with water closet, lavatory, and shower or tub which are in working condition.

(B) *Sewage and water supply systems.* Each manufactured home space shall be provided with and each manufactured home connected to the sanitary sewage and water supply systems of the town or shall in the absence of public sewage and water and with approval of the County Director of Health be connected to a private well and septic tank, constructed under standards required by the County Health Department and county manufactured home park ordinance. Each manufactured home so parked in accordance with this chapter must have an individual meter connected to an electrical supply and must have an approved fuse disconnect at the metered location.

(1) In those areas where public water or sewage is not available, the manufactured home park lot size will be in accordance with the Alamance County Manufactured Home Park Ordinance and the county health regulations.

(2) In those areas where the town is in the process of constructing water and/or sewer lines, the manufactured home park plans must indicate where the connections will be made.

(C) *Lighting.* All interior drives and walkways within the park shall be lighted at night with electric lamps of no less than 100 watts each, spaced at intervals of no more than 100 feet, or equivalent lighting as approved by the town. Lighting shall be the responsibility of the park owner.

(D) *Refuse collection facilities.* One metal garbage can with tight-fitting cover and a capacity of at least 20 gallons and no more than 27 gallons shall be provided for each manufactured home space. Garbage cans shall be located no farther than 100 feet from any manufactured home space. The cans shall be kept in sanitary condition at all times by the owner of the park. Garbage collection will be the town's responsibility for those manufactured home parks inside the town limits; however, the town reserves the right to discontinue the service with a 90 day notice to park owners. For those manufactured home parks outside the town limits, the park owner is responsible for the collection and removal of solid waste. The park owner may provide conveniently located dumpsters. The dumpsters shall be set up so not to allow children access or cause a rodent/vermin problem.

(E) *Service, administrative, and other buildings.*

(1) Within a manufactured home park, one manufactured home may be used as an administrative office. Other administrative and service buildings, housing sanitation and laundry facilities, or any other such facilities shall be of permanent structure, complying with all applicable ordinances and statutes regarding buildings, electrical installations, and plumbing and sanitation systems.

(2) Service buildings shall be well lighted at all times of the day and night and shall be well ventilated, with screened openings, shall be constructed of such moisture-proof material, including painted woodwork, as shall permit repeated cleaning and washing, and shall be maintained at a temperature of at least 68°F during the period from October 1 through May 1. The floors of service buildings shall be of water-impervious material.

(3) No building shall be located closer than 20 feet to any manufactured home.

(4) All service buildings and the grounds of the park shall be kept clean and free from any condition that will menace the health of any occupant or the public or will constitute a nuisance. This shall be the responsibility of the owner of the manufactured home park.

(F) *Structural additions.* All structural additions to manufactured homes, other than those which are built into the unit and designed to fold out or extend from it, shall be erected only after a building permit shall have been obtained, and the additions shall conform to the building code of the town where applicable. The building permit shall specify whether the structural addition may remain permanently, must be removed when the manufactured home is removed, or must be removed within a specified

length of time after the manufactured home is removed. Structural alterations existing at the time of passage of this chapter shall be removed within 30 days after the manufactured home which they serve is moved unless attached to another manufactured home on the same site within that period.

(G) *Fire protection.* No open fires shall be permitted.

(H) *Management.* In each manufactured home park, the permittee or duly authorized attendant or caretaker shall be in charge at all times to keep the manufactured home park, its facilities, and equipment in a clean, orderly, safe, and sanitary condition. All property which is allowed to count for meeting the density requirements of this chapter shall be kept clear of all underbrush, and grass on the property shall not be allowed to exceed eight inches in height.

(I) *Register of occupants.* It shall be the duty of each permittee to keep a register containing a record of all manufactured home owners and occupants located within the park including the date of arrival.

(J) *Occupancy permit.* The Building Inspector shall issue an occupancy permit when all provisions of this section have been met and before any manufactured home is parked.
(‘87 Code, § 152.06) (Ord. passed 8-5-74; Am. Ord. passed 5-1-00) Penalty, see § 153.99

§ 153.07 EXISTING MANUFACTURED HOME PARKS.

(A) All manufactured home parks existing at the time of the adoption of this chapter shall be required to provide a minimum ratio of land per manufactured home space of one acre of land for every 12 manufactured home spaces at the time additional manufactured home spaces are added . When additional manufactured home spaces are added to any manufactured home park existing on the effective date of this chapter, and any amendments, land shall be provided in a minimum ratio of one acre of land for every three manufactured home spaces added until such time as the total area of the entire manufactured home park contains five manufactured home spaces per gross acre. All manufactured home spaces added thereafter shall be provided with land in a minimum ratio of one acre of land for every five manufactured home spaces.

(B) All manufactured home parks in the town existing at the time of the adoption of this chapter shall be exempt from the terms of § 153.05(A)(2) through (6) and (B), but all manufactured home spaces added to existing manufactured home parks shall comply with § 153.05.
(‘87 Code, § 152.08) (Ord. passed 8-5-74; Am. Ord. passed 5-1-00) Penalty, see § 153.99

§ 153.99 PENALTY.

(A) Violation of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50 or imprisoned for not more than 30 days.

(B) Each day the violation continues shall be considered a separate offense.

(C) In addition, if the Building Inspector shall find that a park operating under a manufactured home park permit is violating the terms of this chapter or any special conditions set forth in the manufactured home park permit, he or she may revoke the permit, and further operation of the park without the permit shall be considered a separate offense.

(D) The owner, manager, operator, or tenant of any manufactured home park, or any other person who commits, participates in, assists in, or maintains such violation in any manufactured home park may each be found guilty of a separate offense and suffer the penalties provided in division (A) of this section. The owner or tenant of any manufactured home outside any manufactured home park, or any person who rents, leases, or otherwise furnishes land for a manufactured home, or any other person who contributes to violation of this chapter may be each found guilty of a separate offense and suffer the penalties herein provided.

(E) Nothing herein contained shall prevent the town from taking other lawful action as is necessary to prevent or remedy any violation.

('87 Code, § 152.99) (Ord. passed 8-5-74; Am. Ord. passed 5-1-00)

CHAPTER 154: SUBDIVISIONS

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GENERAL PROVISIONS

§ 154.01 TITLE.

This chapter shall be known as the *Subdivision Ordinance* of the town of Haw River, North Carolina.

(Ord. passed 12-2-96)

§ 154.02 STATUTORY AUTHORIZATION.

This chapter is adopted under the authority and provisions of the G.S. §§ 160A-371 et seq.

(Ord. passed 12-2-96)

§ 154.03 JURISDICTION.

This chapter shall govern all subdivisions of land within the corporate limits of the town and within the extraterritorial planning jurisdiction, as it now exists or may hereinafter be established.

(Ord. passed 12-2-96)

§ 154.04 PURPOSE.

The purpose of this chapter is to promote the public health, safety and general welfare by providing for the orderly subdivision of land in the town. Among other reasons, this chapter is deemed necessary to assure the appropriate layout and use of land; provide safe, convenient and economic circulation of vehicular traffic; provide for the dedication or reservation of street right-of-way, installation of streets and utilities; avoid undue concentrations of population; and ensure proper legal description, identification, monumentation and recordation of property boundaries.

(Ord. passed 12-2-96)

§ 154.05 SCOPE.

(A) This chapter shall govern the platting and recording of any subdivision of land lying within the town and its area of extraterritorial jurisdiction.

(B) This chapter is applicable to all divisions or redivisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose, whether immediate or future, of sale or building development, and shall include all divisions of land involving the dedication of a new street or a change in an existing street.

(Ord. passed 12-2-96)

§ 154.06 DEFINITIONS.

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

BUILDING SETBACK LINES. A line parallel to the street right-of-way line or front property line, side property lines and rear property line of a lot. Buildings and structures shall not be erected within the area between the lot lines and the ***BUILDING SETBACK LINES***.

CORNER LOT. A lot abutting upon two or more streets at their intersection.

DOUBLE FRONTAGE LOT. A continuous lot between two streets assessable from both of the streets upon which it fronts. Corner lots are not included unless they front on three streets.

EASEMENTS. A grant by the property owner for use by the public, a corporation or a person of a strip of land for a specific purpose.

GROUP DEVELOPMENT. A group of two or more principal structures built on a single lot or parcel of land, not subsequently to be subdivided into conventional streets and lots, and designed for occupancy by separate families, business firms or other enterprises.

LARGE LOT SUBDIVISION. A subdivision in which all lots are 40,000 or more square feet in size.

LOT. A portion of a subdivision or any other parcel of land intended as a unit for the transfer of ownership or for development.

LOT DEPTH. The distance of a line connecting the midpoints of the front and rear lines of a lot.

LOT WIDTH. The distance between the sidelines of a lot measured on a line drawn perpendicular to the line used in measuring the lot depth and bisecting the line at its midpoint.

OFFICIAL PLANS AND ORDINANCES. Any plans and ordinances officially adopted by an appropriate governmental body to guide and implement orderly physical development.

PLANNED UNIT DEVELOPMENT. The unconventional subdivision and development of land, not subsequently to be subdivided into conventional streets and lots, and designed for occupancy and ownership by separate families, business firms or other enterprises with significant areas of common properties owned and maintained by private ownership associations.

SITE EVALUATION. The investigation shall include the evaluation of the following factors: topography and landscape position, soil characteristics, morphology, soil wetness, soil depth, restrictive horizons and available space. Soil profiles shall be evaluated at the site by borings or other means of excavation to at least 48 inches or to an unsuitable characteristic, and a determination shall be made as to the suitability of the soil to treat and support septic tank effluent.
(Ord. passed 12-2-96)

§ 154.07 AMENDMENT PROCEDURE.

This chapter may be amended from time to time by the Town Council as provided by G.S. § 160A-364, but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Board for review and recommendation. The Planning Board shall have 45 days within which to submit its recommendation. If the Planning Board fails to submit a recommendation within the specified time, it shall be deemed to have approved the amendment.
(Ord. passed 12-2-96)

§ 154.08 FEES.

(A) Fees for the following services may be established by the Town Council:

- (1) Review of preliminary plans;
- (2) Review of construction plans;

- (3) Review of final plat;
- (4) Recording fee; and
- (5) Construction observation fee.

(B) The schedule of fees adopted by the Town Council, and as the said Board may from time to time amend or modify them, will be available in written form from the Town Clerk.
(Ord. passed 12-2-96)

§ 154.09 CLUSTER DEVELOPMENT.

(A) *Definition.* Cluster development is a variation or exception to the lot size requirements specified in the Chapter 155, the town's zoning ordinance. If approved, the subdivider can cluster or group dwelling units on part of the tract and allow the remaining part of the lot to remain in open space. This is strictly a method of transferring density. It does not allow any uses that are not specifically listed in Chapter 155 of this code.

(B) *Plat and site approval required.*

(1) *Plat.* Any proposed cluster project, whether it is a single-family detached dwelling unit, duplex, townhouse or condominium project, shall have a preliminary and final plat approved by the Planning and Zoning Board and the Town Council.

(2) *Site plan.* Any proposed project shall have a site plan that shows the following information:

(a) The location of the buildings, streets, alleys, walks, parking areas, recreation areas, tree covers and plantings.

(b) Number and show the dimensions of all building sites, streets and utility easements to be dedicated to the public.

(c) All areas on the site plan other than public streets, easements or private building sites shall be shown and designed as common areas.

(3) *Landscape plan.* A landscape plat for all projects shall show all existing and proposed plant materials. The plan shall indicate the size and type of existing plant material and the size and type of plants to be planted.
(Ord. passed 12-2-96)

SUBDIVISION PLATS**§ 154.25 APPROVAL REQUIRED.**

(A) Prior to the subdivision of a tract or parcel of land, a plat shall be prepared, approved and recorded pursuant to the provisions of this chapter. No plat shall be required for the division of land described under §§ 154.72 and 154.73.

(B) The County Recorder shall not file or record a plat of land within the territorial jurisdiction of this chapter which has not been approved in accordance with this chapter or certified as an exception to this chapter.

(C) No administrative agent of the town shall issue any permit for the construction of any building, approval of electrical installation or other improvement requiring a permit upon any land for which a subdivision plat is required, unless and until the requirements of this chapter have been complied with and approval granted in accordance with this chapter.

(D) No street shall be recommended for maintenance by the State Department of Transportation or the town upon any land for which a plat is required, unless and until the requirements have been complied with and approval granted in accordance with this chapter.

(E) As set forth in G.S. §§ 160A-374, the approval of a subdivision plat pursuant to this chapter shall not be deemed to constitute or effect the acceptance by the town, the State Department of Transportation or other public agency of the dedication of any street, utility line or other public facility site shown on the plat.

(Ord. passed 12-2-96)

§ 154.26 PREAPPLICATION CONFERENCE WITH SUBDIVISION ADMINISTRATOR RECOMMENDED.

It is recommended that the subdivider meet with the Subdivision Administrator in a preapplication conference to discuss informally the provisions of this chapter and the subdivision of the land contemplated by the subdivider.

(Ord. passed 12-2-96)

§ 154.27 PRELIMINARY PLANS.

(A) The subdivider shall submit six copies (prepared by a surveyor or engineer licensed in North Carolina) of the preliminary plan to the Subdivision Administrator 14 days prior to Planning and Zoning Board Meeting.

(B) Preliminary plans shall be prepared at a minimum scale of one inch to 200 feet. Preliminary plans shall include, but not be limited to, the information shown in Appendix A.

(C) If no street right-of-way dedication or reservation is involved and no street improvements are required to be made by the subdivider according to the provisions of this chapter, the Subdivision Administrator may waive the requirement for the preliminary plan.

(D) Approval of the preliminary plan shall be valid for one year and shall authorize the subdivider to proceed with the preparation of construction plans for the improvements.

(Ord. passed 12-2-96)

§ 154.28 CONSTRUCTION PLANS.

(A) The subdivider shall submit a minimum of five copies of the construction plans for required street and community utility improvements to the Subdivision Administrator.

(B) Construction plans, including plan and profile, shall be prepared as required by this section. The ratio of profile scales shall be ten to one, horizontal to vertical. The plans shall be at scales of 1 inch to 20 feet, 1 inch to 30 feet, 1 inch to 40 feet or 1 inch to 50 feet.

(C) Plans and profiles shall be drawn on standard size sheets 24 inches by 36 inches. Sufficient data for field construction shall be presented on the construction plans, including, but not limited to, the information shown in Appendix B.

(D) If street and community utility improvements are not required in a subdivision by the provisions of this chapter, construction plans shall not be required.

(E) Approval of the construction plans authorizes the subdivider to proceed with the construction of improvements and preparation of the final plat.

(Ord. passed 12-2-96)

§ 154.29 FINAL PLATS.

(A) The subdivider shall submit two mylars and five copies of the final plat to the Subdivision Administrator.

(B) The final plat shall be prepared in accordance with the requirements of this section and G.S. § 47-30, as amended. The plats shall be prepared at a scale of not less than one inch to 100 feet on reproducible cloth, linen, film or other permanent material and shall be a standard sheet size of 20 inches by 24 inches. Final plats shall include, but not be limited to, the information shown in Appendix C.

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(C) The following certificates shall be on the final plat and properly completed by the appropriate persons prior to submission to the Town Council for final plat approval.

(1) Certificate of ownership and dedication.

I (we are) the owner(s) of the property shown and described hereon, which was conveyed to me (us) by deed recorded in Book _____, Page _____, and that I (we) hereby acknowledge this plat and allotment to be my (our) free act and deed and hereby establish the minimum building lines, and dedicate to public use as streets, alleys, crosswalks, easements, parks and other spaces forever as shown or indicated. That I (we) also dedicate forever to the appropriate agency all utilities as shown on the accompanying documentation and warrant all such utilities and improvements to be free of defects in workmanship and materials for a period of 24 months following the date of this certification or the Council may require a surety bond. Further, I (we) certify that the property as shown hereon is within the subdivision regulation jurisdiction of the town of Haw River.

Owner

Date

Owner

Date

(2) Certificate of accuracy.

I hereby certify that under my direction and supervision this plat, shown and described hereon, was drawn from an actual survey, deed reference recorded in Book _____, Page _____; that the error of closure as calculated by latitudes and departures is 1: _____; and that this plat was prepared in accordance with G.S. § 47-30, as amended. Witness my hand and seal this day _____ of _____, 20____.

Engineer or Land Surveyor

Registration Number

(3) Certificate of a notary public.

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public

Date my commission expires

(4) Certificate of registration.

The foregoing certificate(s) of _____ a Notary (or notaries) Public of the governmental units designated is (are) certified to be correct. Filed for registration on the _____ day of _____, 20____, at ____ m., and duly recorded in the office of the Recorder of this County in Books or Plats Number _____, Page _____.

Recorder

By _____
Deputy

(5) Certificate of approval of water and sewer facilities.

I hereby certify that the water and sewer facilities proposed for installation in this subdivision fully meet the requirements of all applicable rules and regulations.

Director, Alamance County
Health Department

Date

(6) Certificate of approval of required improvements.

The undersigned hereby certify that the required improvements have been made on this property in an acceptable manner and in accordance with the specifications of the subdivision code of the town and other applicable regulations, or that a performance or surety guarantee bond in the amount of \$_____ has been posted with the town to assure completion of all required improvements in case of default on the part of the subdivider.

(a) Approval of required improvements:

North Carolina State
Department of Transportation

Date

Subdivision Administrator
Town of Haw River, North Carolina

Date

(b) Performance or surety guarantee bond.

Subdivision Administrator
Town of Haw River, North Carolina

Date

(7) Certificate of approval by the Town Council.

This subdivision plat has been found to comply with the provision of the subdivision regulations of the town and is approved this date by the Town Council for recording in the office of the Recorder.

Mayor, Town of Haw River

Attest:

Subdivision Administrator
Town of Haw River

Date

(D) No final plat shall be approved until all improvements are installed or their execution guaranteed as set forth in this chapter and all certificates required on final plats have been properly completed and signed.

(E) The appropriate members of the technical staff shall review plans and plats for compliance with the provisions and intent of this chapter. The findings and recommendations of the technical staff shall be assembled by the Subdivision Administrator. The Subdivision Administrator shall notify the subdivider of the action by the technical staff with promptness as soon as action is taken and within a maximum of 60 days after the receipt of the plans or plats.

(F) The subdivider may appeal to the Town Council if the technical staff review finds the plans or plats not to be in compliance with the provisions and intent of this chapter. The appeal must be made by the subdivider in writing within 60 days after notification by the Subdivision Administrator. The written appeal shall include in detail the justification for the appeal.

(G) The Town Council shall review the findings and recommendations of the technical staff as the appeal by the subdivider prior to rendering a final decision on the plats and plans.

(H) Final approval of the plat shall be given by the Town Council, as required by the G.S. § 160A-373. The approved plat shall be endorsed by the Mayor. If plats are disapproved, the reasons for disapproval shall be noted in the minutes of the Town Council.

(I) The Subdivision Administrator shall return a copy of the recorded final plat to the subdivider after recordation.

(Ord. passed 12-2-96)

§ 154.30 REVIEW PROCEDURE FOR MINOR SUBDIVISION PLATS.

(A) *Objective.* An abbreviated process shall be permitted to simplify and speed up the review procedure for handling minor subdivision plats without undermining the objective of the subdivision regulations.

(B) *Minor subdivision defined.* A minor subdivision shall include all subdivisions that:

- (1) Front on an existing road;
- (2) Contain ten lots or less; and
- (3) Have access to water and sewer if inside the town limits.

(C) *Review procedure.*

(1) The subdivider shall submit a sketch development plan to the Subdivision Administrator. At this stage, the Administrator and the subdivider shall informally review the proposed subdivision to insure it meets the requirements of a minor plat.

(2) After this initial review has been completed, the subdivider shall prepare a final plat as specified in § 154.29 and submit it to the Planning and Zoning Board for their review and approval.

(3) The Town Council shall approve or disapprove the final plat at their next regular meeting.

(D) *Final plat requirements.* The abbreviated procedure for minor plats does not change the requirements for final plats as specified in § 154.29.

(E) *Appeal procedure.* If the subdivider disagrees with the decision of the Planning and Zoning Board or does not receive a response within 30 days, the subdivider may appeal to the Town Council at their next regular meeting.

(Ord. passed 12-2-96)

DESIGN STANDARDS**§ 154.40 GENERAL REQUIREMENTS.**

(A) Land shall be subdivided in accordance with good land planning practices, including adequate consideration of the natural topography and drainage features and the type of development proposed.

(B) Land shall be subdivided in compliance with pertinent official development plans and ordinances.

(Ord. passed 12-2-96) Penalty, see § 154.99

§ 154.41 STREETS.

(A) Street names shall not duplicate or closely approximate phonetically, existing street names in the county, and street names of existing streets shall be projected where applicable.

(B) Streets shall be designed in coordination with existing and proposed streets in the surrounding area providing for the continuation of appropriate streets.

(C) Means of ingress and egress for adjoining property shall be provided in the layout of streets.

(D) If land is to be subdivided into tracts larger than typical building lots, streets and roads shall be graphically arranged on the preliminary plan so as to allow for future resubdivision and opening of streets.

(E) Cul-de-sacs or other dead-end streets designed to be permanently closed shall be no longer than 800 feet and shall be provided at the closed end with sufficient right-of-way for vehicular circulation. Circular right-of-way at the closed end shall conform to requirements set forth in "Subdivision Roads Minimum Construction Standards," published July 1, 1985 by the North Carolina Department of Transportation and as it may be subsequently amended.

(F) Parkways or double streets may be required to traverse a drainage, watercourse or stream. The width of the right-of-way shall be adequate to accommodate the flow of storm water.

(G) Parallel access streets may be required along existing or proposed arterials and major collectors to afford separation of local traffic from through traffic.

(H) The widths of right-of-way and roadway surfacing on streets adjacent to existing or proposed nonresidential properties may be increased up to 15 feet to insure the free flow of traffic without interference by vehicles entering or leaving the property.

(I) Private streets or reserve strips shall not be platted in any subdivision.

(J) Street and road rights-of-way shall be reserved and dedicated as follows:

(1) Arterials and major collectors shall be reserved in compliance with official street plans if direct access to the property is to be prohibited. If direct access to the property is to be permitted, such rights-of-way shall be dedicated in compliance with official street plans.

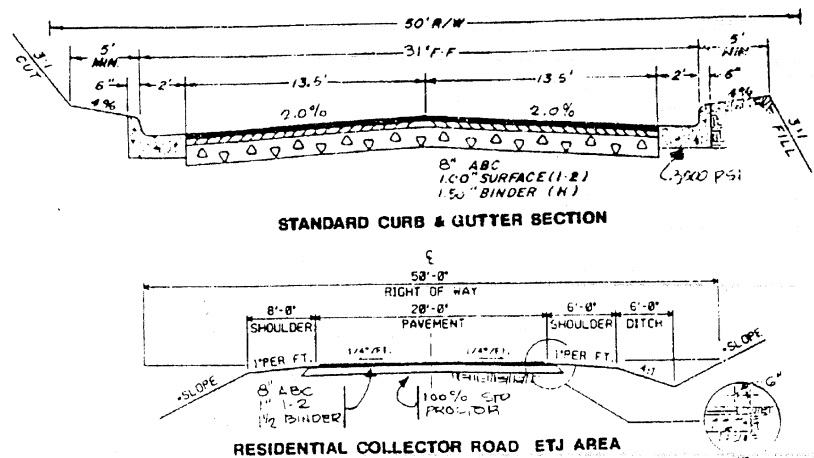
(2) Rights-of-way for minor collectors and local streets shall be dedicated in compliance with official street plans and the provisions of this chapter.

(K) Subdivision streets shall conform to the following requirements and minimum standards of design.

<i>Design Speed</i>	<i>Maximum Grade</i>	<i>Minimum Stop Sight Distance</i>
40 m.p.h.	7%	275 feet

(1) Design speed may be reduced in mountainous areas, as defined by the State Department of Transportation.

(2) Grades steeper than the above maximum grade are allowable in mountainous areas, as defined by the State Department of Transportation. Grades for 100 feet each way from intersections shall not exceed 5%, and grades less than 0.5% shall not be used. All changes in grade shall be connected by vertical curves of minimum length equal to 3.5 times the algebraic difference in rates of grade for minor collectors and 20 times the algebraic difference for local streets.



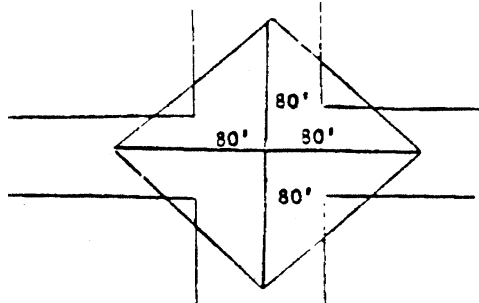
(1) The following minimum standards shall apply to street intersections.

(1) Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than a 60° angle.

(2) Intersections, whether full or tee intersections, shall not occur at less than the distance indicated:

<i>Street Type</i>	<i>Minimum Distance Between Intersections</i>
Arterial	1,000 feet
Major Collector	800 feet
Minor Collector	400 feet
Local	200 feet

(3) Right-of-way on each corner at an intersection shall be enlarged by constructing a triangle. One point of the triangle shall be the intersection of the center lines of the two streets abutting the corner lot. The other point on minor collectors and local streets shall be located on the center lines of the two streets abutting the corner lot. The minimum distance from center line intersections for arterials and major collectors shall be determined by the State Department of Transportation.



(4) Sight distance at each intersection shall not be obstructed and shall be enlarged by constructing a triangle. One point of the triangle shall be the intersection of the center lines of the two streets abutting the corner lot, and the other points shall be located a minimum of 100 feet distance along the center lines of the two streets abutting the corner lot except as otherwise determined by the State Department of Transportation.

(M) Curb and gutter is mandatory on new subdivision streets.

(Ord. passed 12-2-96) Penalty, see § 154.99

§ 154.42 BLOCKS.

Blocks shall be laid out with due consideration given to the traffic circulation pattern and the contemplated use.

(A) Blocks shall have sufficient width to provide two tiers of lots of minimum size, except blocks may be one lot in width where reverse frontage lots are required to separate development from through traffic on arterials and major collectors or to separate residential development from nonresidential.

(B) Along each side of each street the distance between through streets shall fall between the minimum and maximum specified below, provided that the minimum distance specified shall not prevent access from adjoining a property to a street.

<i>Street Type</i>	<i>Distance</i>	
	<i>Minimum Regular Subdivision</i>	<i>Maximum Large-lot Subdivision</i>
Arterial (1,000 feet)	-----	-----
Major Collector (800 feet)	-----	-----
Minor Collector (600 feet)	2,000 feet	2,000 feet
Local (400 feet)	1,400 feet	1,800 feet

(Ord. passed 12-2-96) Penalty, see § 154.99

§ 154.43 LOTS.

Lots shall be designed in shape, size and location with due regard to topographic conditions, features of the surrounding area, contemplated use and official plans and ordinances.

(A) Every lot shall front or abut on a public street.

(B) Double frontage and reverse frontage lots shall be avoided, except where required to separate development from through traffic on arterial and major streets or to separate residential development from nonresidential development.

(C) Side lot lines shall be substantially at right angles or radial to street lines.

(D) All lots shall conform with the minimum standards noted below and the minimum standards contained in any applicable zoning ordinance, building code or other such regulation.

(1) In calculation of lot areas, lot depths and lot widths, land within any street right-of-way or railroad right-of-way shall not be considered.

(2) Corner lots shall have an extra width of 20% of the average lot width within the subdivision, but no corner lot shall be required to exceed 100 feet in width.

(3) Land subject to flooding or land which may aggravate the flood hazard or increase the danger to life or property if developed, and land uninhabitable for other reasons, shall not be considered in determining the minimum lot area or maximum lot depth as herein specified. The criteria as developed by the state shall be used.

(4) A strip of land 40 feet in width, in addition to the minimum required lot depth and width, shall be provided between all railroads, arterial and major streets, nonresidential properties and like uses, and properties of existing or proposed residential development. This strip shall be a part of the lots and reserved permanently for screening conflicting uses of land.

(5) Nonresidential lots shall be of suitable area and dimension to accommodate the development anticipated and shall be of sufficient area to include off-street service facilities and off-street vehicular parking for patrons and employees. The minimum area of lots with sewer and water facilities shall be approved by the Director of the County Health Department on the basis of anticipated use, type of sewer and water facilities proposed and site analysis.

(6) Residential lots shall conform to the following minimum standards.

(a) The width of residential lots shall be no less than 400 of the depth of the lot, but no lot shall be required to be more than 150 feet in width.

(b) On-site sewer and water facilities shall be approved by the Director of the County Health Department.

(c) Any residential lot located within a watershed of a stream designated for public water supply shall be a minimum of 40,000 square feet where on-site wastewater disposal is used. Maps indicating those watersheds are available in the County Health and Planning Departments.

(d) The minimum lot area for residential lots with on-site facilities shall be determined by the results of soil surveys and investigations, site evaluations and other appropriate criteria and tests, but in no case shall a lot be smaller than specified by the County Health Regulations or the town's zoning ordinance.

(Ord. passed 12-2-96) Penalty, see § 154.99

§ 154.44 BUILDING SETBACK LINES.

The building setback from the lot line shall be no less than the following distances.

<i>Setback line</i>	<i>Distance</i>
From the front property line on streets	
Arterial	As Zoned
Major collector	As Zoned
Minor collector	As Zoned
Local	As Zoned
From the side property line	
abutting streets	As Zoned
From the side property line not	
abutting streets	As Zoned
From the rear property line	As Zoned
(Ord. passed 12-2-96) Penalty, see § 154.99	

§ 154.45 EASEMENTS.

(A) Utility easements, when and where required, shall be a minimum of 20 feet in width along rear lot lines and subdivision boundaries and ten feet in width along side lot lines. Where possible, these easements shall be centered on lot lines providing ten feet on each side of the rear lot line and five feet on each side of the side lot line. An easement of ten feet along a subdivision boundary is sufficient if there is an easement of like or greater size on the opposite side of the boundary.

(B) Where a drainage way, watercourse or stream traverses or borders a subdivision, it shall be shown on the preliminary plan and the final plat conforming with the lines of the watercourse and at a width adequate to accommodate the flow of storm water.

(1) Watercourse boundaries as drawn on preliminary plans and final plats are to be interpreted as approximations of actual boundaries. For example, a 20 foot watercourse shall be deemed to extend approximately ten feet on each side of the center of water flow, unless otherwise specified.

(2) Where a subdivider proposes to create a new watercourse in order to relocate an existing watercourse or to handle road runoff, a drainage easement along the proposed new watercourse shall be indicated on the preliminary plan and the final plat. Any channels, diversions or other improvements needed to carry water to or along this new course shall be constructed or guaranteed prior to final plat approval.

(3) A strip of land 40 feet in width shall be reserved permanently between all railroads, arterial and major streets, nonresidential properties and like uses, and properties of existing proposed residential development.

(Ord. passed 12-2-96) Penalty, see § 154.99

§ 154.46 RESERVATION OF PUBLIC FACILITY SITES.

It is in the public interest that land proposed for public facility sites by officious development plans within or partially within property being subdivided shall be reserved for specific public use. In order to more effectively coordinate public and private plans, developers of land shown to have public use on official plans of the town are encouraged to develop their preliminary subdivision plans recognizing the potential public use of these sites. Developers are encouraged to negotiate with public agencies involved toward the end of acquiring the public sites in order that the integrity of public plans may be maintained. (Ord. passed 12-2-96)

IMPROVEMENTS**§ 154.60 IMPROVEMENTS PREREQUISITE TO FINAL APPROVAL.**

(A) No subdivision plans shall be granted final approval until the required improvements have been made in accordance with the provisions of this chapter.

(B) Final plats may be approved prior to the completion of required improvements upon the guarantee of the improvements by the subdivider within an 18 month period. The town may accept performance or surety guarantee bonds in the amount of one and one-half times the cost of making the required improvements, whereby these improvements shall be made without cost to the public or subsequent purchasers of the property in the event of default on the part of the subdivider.

(Ord. passed 12-2-96)

§ 154.61 REQUIRED IMPROVEMENTS.

Within the jurisdiction of this chapter, construction or guarantee by bond of the following improvements shall be required prior to final plat approval.

(A) Rights-of-way shall be cleared and grubbed in accordance with the requirements set forth in the most recent published requirements of the State Department of Transportation.

(B) Street grading and drainage shall be completed in accordance with the approved construction plans and in accordance with the most recent published requirements of the State Department of Transportation.

(C) All materials, the construction of the shoulder and base course and pavement surface shall meet the requirements set forth in the most recent published requirements of the State Department of Transportation. (See Appendix D).

(1) In all subdivisions except those which had received preliminary plan approval prior to the adoption of this chapter, paving of streets is required. (See Appendix D).

(2) All unsurfaced disturbed portions of street rights-or-way shall be stabilized by seeding, fertilizing and mulching or by another equally effective method.

(Ord. passed 12-2-96)

§ 154.62 EROSION AND SEDIMENT CONTROL.

Subdividers are advised to submit erosion and sediment control plans of all land disturbing activities covering more than one acre to the State Sedimentation Control Commission beginning March 1, 1975 and to conform to the most recent published requirements of this Commission.

(Ord. passed 12-2-96)

§ 154.63 JURISDICTION OF ADJOINING MUNICIPALITIES.

Within the subdivision regulation jurisdiction of any municipality whose governing body agrees by resolution to the provisions of this chapter, the required improvements, such as grading and surfacing of streets and installing storm drainage and community water and sewer facilities, shall be in accordance with the requirements and standards specified by the respective municipalities.

(Ord. passed 12-2-96) Penalty, see § 154.99

§ 154.64 REMOVAL OF DEBRIS.

(A) All fallen trees, stumps, junk and rubbish of any nature resulting from the grading of streets or the clearing of lots in the subdivision shall be completely buried, destroyed or removed from the subdivision site.

(B) All debris, fallen trees, junk and other accumulations of a nature that will impede the passage of waters in their downstream course or cause flooding shall be removed from the channel and banks of any stream, creek or drainage way of the subdivision site.

(Ord. passed 12-2-96) Penalty, see § 154.99

§ 154.65 STREET SIGNS.

Street name signs shall be erected by the subdivider at each street intersection. Street name signs shall conform to those adopted and in use by the town.

(Ord. passed 12-2-96) Penalty, see § 154.99

§ 154.66 MONUMENTS AND MARKERS.

Monuments and markers shall be located and installed as required and in accordance with the rules and regulations of the North Carolina Manual of Practice for Land Surveying, Volume I, and G.S. §§ 39-32.1 through 39-32.4, as amended. Monuments and markers shall be of the design and type described in these rules and regulations.

(Ord. passed 12-2-96) Penalty, see § 154.99

§ 154.67 COMMUNITY UTILITIES.

(A) Where an established public water system is available in the extraterritorial jurisdiction to a subdivision and water lines may be extended from it to all lots in the subdivision at a cost equal to or less than the cost of installing a well on each lot in the subdivision, the subdivider shall be required to provide each lot in the subdivision with access to a water line connected to the public water system. All lots within the town jurisdiction shall connect to the town water system.

(B) Where an established public sewage system is available and sewer lines may be extended from it to all lots in the subdivision at a cost equal to or less than the cost of installing a septic tank and nitrification lines on each lot in the subdivision, the subdivider shall be required to provide each lot in the subdivision with access to a sewer line connection to the public sewage system. All lots within the town limits shall connect to the town sewer system.

(C) Further, the subdivider is encouraged to cooperate with utility companies in the installation of underground telephone and electrical systems.

(Ord. passed 12-2-96) Penalty, see § 154.99

§ 154.68 LANDSCAPING.

Landscaping as set forth in Chapter 155 shall apply.

(Ord. passed 12-2-96)

ADMINISTRATION AND ENFORCEMENT**§ 154.80 SUBDIVISION ADMINISTRATOR.**

(A) This chapter shall be administered by the Subdivision Administrator with the assistance of the technical staff.

(B) The Subdivision Administrator shall be appointed by the Town Manager. The powers and duties of the Subdivision Administrator shall be to implement the provisions of this chapter with the assistance of the appropriate technical staff. The responsibilities of the Subdivision Administrator shall include conferring with subdividers, reviewing plans and plats of land subdivision, coordinating and collaborating with the technical staff on the plans and plats, making field investigations of plans and improvements and presenting the plans and plats with findings and recommendations to the Town Administrator as required by the provisions and intent of this chapter.

(Ord. passed 12-2-96)

§ 154.81 TECHNICAL STAFF.

(A) The technical staff shall include the Subdivision Administrator, the Town Manager and representatives from the County Board of Health, Town Planning Board, County Board of Education, County Soil and Water Conservation District supervisors, Haw River Recreation Commission, State Department of Transportation and other agencies and specialists as deemed necessary by the Subdivision Administrator to properly implement the provisions and intent of this chapter.

(B) The responsibilities of the representatives of the technical staff shall include reviewing the plans and plats and performing the necessary field work and investigation.

(Ord. passed 12-2-96)

§ 154.82 EXCEPTIONS.

(A) The following shall not be included nor be subject to the regulations prescribed by this chapter:

(1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the town as described in this chapter.

(2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved.

(3) The public acquisition by purchase of strips of land for the widening or opening of streets.

(4) The division of a tract in single ownership, the entire area of which is no greater than two acres, into not more than three lots, where no right-of-way dedication is involved and where the resultant lots equal or exceed the standard described in this chapter.

(5) The division of a tract or parcel of land into not more than two lots within a two-year period, where no right-of-way dedication is involved and where the resultant lots equal or exceed the standards described in this chapter.

(6) The division of a cemetery into grave sites.

(B) Plats not subject to the provisions of this chapter may be recorded provided the owner desiring to record such plats shall obtain a certificate of exception from the Subdivision Administrator and shall present this certificate to the Recorder as proof that the exception conditions are present.

(C) Certificate of exception.

I (we) hereby certify that I am (we are) the owners of the property shown and described hereon, which was conveyed to me (us) by deed recording in Book _____, Page _____, which is excepted from application of the Subdivision Ordinance of the Town of Haw River, North Carolina.

Owner

Date

Subdivision Administrator

Date

(Ord. passed 12-2-96)

§ 154.83 VARIANCES.

The following conditions may constitute justification for varying the standards and requirements of this chapter. At the request of the Subdivision Administrator, a subdivider seeking a variation shall make application in writing, stating his or her reasons for seeking a variation.

(A) The standards and requirements of this chapter may be modified in the case of a plan and program for a complete group development or planned unit development, if the development provides adequate public spaces and improvements for pedestrian and vehicular circulation, recreation, light, air, service needs of the tract and continued maintenance of on-site group or public utilities when fully developed and populated, and which also provides those covenants, financial guarantees and other legal provisions to guarantee conformity to and achievement of the total development plan.

(B) Where, because of the natural features or other existing physical conditions peculiar to the site compliance with the standards and requirements of this chapter would cause an unusual and unnecessary hardship to the subdivider, variations may be permitted provided that the variations will not have the effect of nullifying the purpose of these regulations.

(Ord. passed 12-2-96)

§ 154.99 PENALTY.

(A) Any person who, being the owner or agent of the owners of any land located within the subdivision regulation jurisdiction of the town, hereafter subdivides such land in violation of this chapter or transfers or sells any part of such land by reference to, exhibition of or any other use of a plat showing a subdivision of land before such plat has been properly approved under the provisions of this chapter and recorded in the office of the County Recorder, shall be guilty of a misdemeanor punishable by a fine of not more than \$50 or imprisonment for not more than 30 days.

(B) This chapter may also be enforced by injunction, order of abatement or other equitable remedy upon application to the courts, as permitted to G.S. § 160A-375.

(C) The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the equitable remedy of injunction.

(Ord. passed 12-2-96)

APPENDIX A: SPECIFICATIONS FOR PRELIMINARY PLANS**§ 1 TITLE DATA.**

Required title data shall be as follows:

(A) Date of submission.

(B) Name and address of owner(s).

(C) Name of subdivision. Subdivision names shall not duplicate, or approximate phonetically, existing subdivision names.

(D) Location designation (township, county, state and location map showing the property to be subdivided and surrounding area).

(E) Name and address of designer.

(F) Scale in figures and bar graph.

(G) North arrow.

(H) Preliminary plan notation.

(I) Proposed use of property to be subdivided.

§ 2 EXISTING CONDITIONS.

Existing conditions on property to be subdivided and within 300 feet of property being subdivided are defined as follows:

(A) Street rights-of-way, widths of pavements and names.

(B) Location and size of community utilities including sewer, water, electricity and telephone facilities.

(C) Location and size of bridges, culverts and other storm drainage facilities.

(D) Location, width and purpose of all easements.

(E) Bearings and distances of property boundary.

(F) Surrounding property lines, property owners and subdivisions.

(G) Boundaries and identification of political subdivisions.

(H) Boundaries and identifications of land use districts.

(I) Buildings.

(J) Topography, including water-course, wooded areas and contours at five foot intervals or less.

(K) Location, extent and identification of marginal land, wetland and other county, state and/or federally protected areas.

(L) Driveways and road, in use or abandoned, leading to property.

(M) Other natural or manmade conditions affecting site development.

(N) At the request of the Subdivision Administrator or the technical staff, a list of restrictive covenants (deed restrictions) to be applied to any or all lots in the subdivision.

§ 3 PROPOSED PLANS.

(A) Street alignments, rights-of-ways, names.

(B) Community utilities including water, sewer, electricity, gas and telephone facilities with connections to existing systems shown.

(C) Location and size of bridges, culverts and other storm drainage facilities.

(D) Location, width and purpose of all easements.

(E) Lines, numbers and approximate dimensions of lots and blocks.

(F) Minimum building setback lines.

(G) Public use sites.

(H) Site data, as follows.

(1) Acreage of property to be subdivided.

(2) Acreage of public use sites.

(3) Number of lots.

(4) Acreage lots size.

(5) Square feet of each irregularly-shaped lot.

(6) Lineal feet streets.

(Ord. passed 12-2-96)

APPENDIX B: SPECIFICATIONS FOR CONSTRUCTION PLANS**§ 1 THE PLAN.**

The construction plan shall consist of the following:

(A) Title data.

- (1) Date of submission.
- (2) Name and address of owner(s).
- (3) Name of subdivision.
- (4) Location designation (township, county, state).
- (5) Name and address of designer.
- (6) Scale in figures and bar graph.
- (7) North arrow.
- (8) Certificate of approval by the technical staff.

The technical staff finds these construction plans to be in compliance with the provisions and intent of the Subdivision Ordinance of the town and the approved preliminary plan.”

North Carolina State
Department of Transportation

Date

Subdivision Administrator
Town of Haw River, North Carolina

Date

(B) Street data.

(1) Physical features and structures in rights-of-way and elsewhere as affected by street construction.

(2) Sufficient data on the center line of proposed streets to readily verify compliance with the provisions of this chapter including horizontal curve data (point of intersection, delta angle, degree of curve, radius curve, length of curve, tangent distance), station equality at intersections, width of existing pavements and rights-of-way and typical street section.

(C) *Utilities.* Utilities, including existing and proposed community water and sewer systems and other underground utilities and appurtenances.

(D) *Storm drainage.* Storm drainage facilities, including the location, size and drainage area bridges, culverts and drain pipes.

§ 2 PROFILE.

(A) *Street data.*

(1) Center line profiles of proposed streets. The profiles shall be extended beyond the property being subdivided sufficiently to verify the feasibility of the proposed street.

(2) Center line vertical curve data and elevations.

(3) Center line profiles of intersection streets (existing and proposed).

(4) Grades.

(5) Station and elevation of intersecting streets.

(6) Existing street and property line elevations.

(7) Street names.

(8) Benchmark, description and elevation.

(B) *Utilities.* Utilities, including existing and proposed community water and sewer systems and other underground utilities and appurtenances.

(C) *Storm drainage.* Storm drainage facilities, including top and invert elevations for catch basins and manholes and percent of grade on storm drainage pipes and culverts.

(Ord. passed 12-2-96)

APPENDIX C: SPECIFICATIONS FOR FINAL PLATS

§ 1 TITLE DATA.

- (A) Date of submission.
- (B) Name and address of owner(s).
- (C) Name of subdivision.
- (D) Location designation (township, county, state).
- (E) Name and address of engineer or surveyor.
- (F) Scale in figures and bar graph.
- (G) North arrow.
- (H) Final plat notation.
- (I) Certificate.

§ 2 SURROUNDING PROPERTIES INFORMATION.

Information on surrounding property shall consist of:

- (A) Property lines, property owners and subdivisions;
- (B) Rights-of-way, easements, reservations and public use sites located and identified within 300 feet of the property being subdivided.

§ 3 PROPERTY BEING SUBDIVIDED.

- (A) Street rights-of-way, widths of pavement and names.
- (B) Property boundary lines, including bearing and distance.
- (C) Block and lot lines and dimensions.
- (D) Minimum building setback lines.
- (E) Identification and dimensions of easements, reservations and dedicated areas.

(F) Location, extent and identification of marginal land, wetland and other county, state and/or federally protected areas.

(G) Sufficient data of monuments and markers to determine readily and reproduce on the ground the location, bearing and length of all the above items.

(Ord. passed 12-2-96)

APPENDIX D: DESIGN STANDARDS FOR STREET SUBGRADES AND PAVEMENTS

§ 1 PAVEMENT DESIGNS.

(A) The following are minimum thickness of base and surface course to be used. Design should be chosen from Group I or Group II depending on subgrade soil type.

GROUP I

Good to Excellent

Subgrade Soil Types	Base Course	Pavement Surface
A-1-a, A-1-b, A-3	7" STBC, Type A or C-----	2" SA or I-2
A-2-4, A-2-5, A-2-6	9" STBC, Type A or C-----	1 ½" SA or I-2
A-2-7	8" ABC or STBC, Type B-----	BST, 1" SA or I-2
	6" ABC or STBC, Type B-----	1 ½" SA or I-2
	3" BCBC, Type HB-----	1 ½" SA or I-2
	3 ⅓" BCBC, Type HB-----	2" SA or I-2
	-----	5" Plain Concrete

GROUP II

Poor to Fair

Subgrade Soil Types	Base Course	Pavement Surface
A-4, A-5, A-6, A-7-5	9" STBC, Type A or C-----	2" SA or I-2
A-7-6	8" ABC or STBC, Type B-----	1 ½" SA or I-2
	10" ABC or STBC, Type B-----	BST, 1" SA or I-2
	4" BCBC, Type HB-----	1 ½" SA or I-2
	3" BCBC, Type HB-----	2" SA or I-2
	-----	6" Plain Concrete

Any other pavement design must be reviewed by the N.C. Department of Transportation Division Engineer and by the town staff on an individual basis and approval will be based on sound engineering principles.

§ 2 SUBGRADE.

No base course shall be placed on muck, pipe clay, organic matter or other unsuitable material. The N.C. Department of Transportation District Engineer and/or the town staff may require a subgrade soils test to determine the soils classification type. Soil type classifications are based on definitions found in the latest edition of the N. C. Department of Transportation "Minimum Construction Standards for Subdivision Roads."

§ 3 DEFINITIONS.

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

ABC	Aggregate Base Course, No. 7 stone
STBC	Soil Type Base Course
BST	Bituminous Surface Treatment
SA	Bituminous Concrete Surface Course, Type F-1 (Sand Asphalt)
I-2	Bituminous Concrete Surface Course, Type 1-2
	NOTE: I-1 May be used in lieu of I-2
BCBC	Bituminous Concrete Base Course, Type HB (Black Base)

§ 4 OTHER BASE COURSES.

Other base courses such as various cement-treated materials may be used in lieu of those herein before mentioned. These materials shall be of sufficient thickness to provide equivalent strength. However, any substitute offered must receive approval prior to use by the N.C. Department of Transportation Division Engineer and by the town staff.

§ 5 MATERIAL AND WORKMANSHIP REQUIREMENTS.

All materials and workmanship shall meet the appropriate requirements set forth in the latest edition of the following publications published by the North Carolina Department of Transportation: Standard Specifications for Roads and Structures; Subdivision Roads, Minimum Construction Standards; and Highway Design Branch, Roadway Standard Drawings, Roadway Design.
(Ord. passed 12-2-96)

CHAPTER 155: ZONING CODE

Section

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GENERAL PROVISIONS

§ 155.001 AUTHORITY AND ENACTMENT CLAUSE.

This chapter establishes zoning regulations in the town of Haw River, North Carolina; provides for the administration, amendment and enforcement of this chapter; and provides for and defines the duties and powers of a Board of Adjustment. Pursuant to and in accordance with the provisions of G.S. Chapter 160A, Article 19, the Town Council does hereby ordain and enact into law the following sections and hereby repeals all ordinances in conflict with this chapter.

(Ord. passed 11-2-15)

§ 155.002 TITLE.

This chapter shall be known as *The Zoning Ordinance of the Town of Haw River, North Carolina* and may be cited as the Zoning Ordinance.

(Ord. passed 11-2-15)

§ 155.003 PURPOSE AND INTENT.

This chapter is designed to guide and regulate the orderly development of the town's physical elements, in accordance with existing land use patterns, population densities and the town's Land

Development Plan (1980). Reasonable consideration has been given to the town's future growth and expansion. The purpose of this chapter is to promote the public health, safety, morals and general welfare; to promote the orderly development of the town; to prevent overcrowding; and to regulate the appropriate location and use of structures and land for trade, industry, residences or purposes other than bona fide farming.

(Ord. passed 11-2-15)

§ 155.004 JURISDICTION.

This chapter applies to all lands within the corporate limits of the town and all extraterritorial zoning areas within which the town exercises jurisdiction.

(Ord. passed 11-2-15)

§ 155.005 INTERPRETATION OF WORDS AND TERMS.

For the purposes of this chapter, certain words and terms shall be interpreted as follows:

(A) Words used in the present tense include the future tense, and words used in the future tense include the present tense.

(B) Words used in the singular number include the plural, and words used in the plural number include the singular.

(C) The word "person" includes a firm, association, organization, partnership, corporation, trust and company as well as an individual.

(D) The word "lot" includes the word "plot," "parcel" or tract."

(E) The word "building" includes the word "structure."

(F) The words "shall" and "must" are always mandatory.

(G) The word "may" is permissive.

(H) The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."

(I) The term "zoning map" shall mean the official zoning map(s) of the town of Haw River, North Carolina.

(J) The words “Haw River Planning Area” or “Planning Area” mean the corporate limits and extraterritorial jurisdiction within which the town of Haw River exercises its planning and zoning authority.

(K) For purposes of interpreting this chapter, certain words, concepts, and ideas are defined in § 155.006 “DEFINITIONS.” Except as defined herein, all other words used in this chapter shall have their everyday dictionary definition.

(Ord. passed 11-2-15)

§ 155.006 DEFINITIONS.

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

ABANDONED.

(1) A use shall be deemed to be abandoned when:

(a) The use is physically and objectively discontinued (other than in association with the settlement of an estate or for any use which is seasonal in nature); or

(b) The premises are devoted to another use; or

(c) The characteristic equipment and furnishings of a nonconforming nonresidential use have been physically removed from the premises and have not been replaced by the same or similar equipment within 30 days.

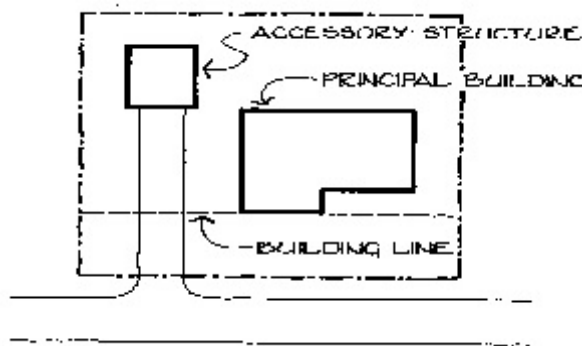
(2) All of the above events are considered abandonment, regardless of the intent of the owner, lessee or occupant and regardless of any circumstances beyond the control of such parties that prevent continuation of the use.

ABATTOIR. A facility used for slaughtering and processing of animals and the refining of their byproducts.

ABUTTING PROPERTIES. Having common property boundaries or lot lines that are not separated by a street, alley, or other vehicular right-of-way such as a railroad.

ACCESS EASEMENT. An easement which grants the right to cross property.

ACCESSORY STRUCTURE. A detached subordinate building, the use of which is incidental to that of the principal building and located on the same lot therewith.



ACCESSORY USE. A structure or use that:

- (1) Is clearly incidental to and customarily found in connection with a principal building or use;
- (2) Is subordinate to and serves a principal building or a principal use;
- (3) Is subordinate in area, extent, or purpose to the principal building or principal use served;
- (4) Contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and
- (5) Is located on the same zone lot as the principal building or use served.

ADJACENT PROPERTY. This term shall mean anything that is contiguous or abutting with the assumption that railroads, roads, and other rights-of-way do not exist.

ADULT BOOKSTORE. A bookstore:

- (1) Which receives a majority of its gross income during any calendar year from the sale of publications (including books, magazines and other periodicals) which are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual activities or anatomical areas, or
- (2) Having a preponderance of its publications, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting or relating to sexual activities or anatomical areas.

ADULT CARE HOMES. Adult care homes are residences for aged and disabled adults who may require 24-hour supervision and assistance with personal care needs. People in adult care homes typically need a place to live, some help with personal care (such as dressing, grooming and keeping up with medications), and some limited supervision. Medical care may be provided on occasion, but is not routinely needed. Medication may be given by designated, trained staff. These homes vary in size from family care homes of two to six residents to adult care homes of more than 100 residents. These homes were previously called “domiciliary homes.”

ADULT ESTABLISHMENT. An adult bookstore (as defined above), adult motion picture theater, adult mini motion picture theater, adult live entertainment business, or massage business as defined in G.S. 14-202.10.

AGRICULTURE. The use of land for production in the open of cash grains, field crops, vegetables, fruits, berries and nuts, trees, flowers; or raising and keeping of general livestock and poultry or the products thereof or the breeding of such livestock and poultry.

ALLEY. A roadway which affords only a secondary means of access to abutting property.

AMENDMENT. Any change by the Town Council to the text of these regulations or the official zoning map.

AMERICANS WITH DISABILITIES ACT (ADA). Federal law enacted in 1990 to protect individuals with physical or mental disabilities from intentional or unintentional discrimination in housing, employment, education, access to public services, etc.

ANIMAL HOSPITAL. A place where animals or pets are given medical or surgical treatment by a licensed veterinarian.

APPLICANT. Any person seeking approval under these regulations for any form of development or use of land.

APPROVAL AUTHORITY. The Town Council or other board or official designated by ordinance or this section as being authorized to grant the specific zoning or land use permit or approval that constitutes a site specific development plan.

ARCHITECT. A person licensed to practice architecture in the State of North Carolina.

ART GALLERY. A room or structure in which original works of art or limited editions of original art are bought, sold, loaned, appraised or exhibited to the general public.

ASSEMBLY. A joining together of completely fabricated parts to create a finished product.

ASSISTED LIVING RESIDENCE. Any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. The Department of Human Resources may allow nursing service exceptions on a case-by-case basis. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. North Carolina recognizes three types of assisted living residences: adult care homes, group homes for developmentally disabled adults, and multi-unit assisted housing with services.

ATHLETIC FIELD. Outdoor sites, often requiring equipment, designed for formal athletic competition in field sports (e.g. softball, soccer, football).

AUTO WRECKING. A person or business that provides open storage, disassembling, or salvaging for more than two junked motor vehicles.

AUTOMATIC TELLER MACHINE (ATM). A type of banking and financial services with automated or self-service banking features with no staff or personnel provided.

AUTOMOBILE REPAIR SHOP. A facility which provides for the major repair and maintenance of vehicles and the repair of motors, repair and/or installation of tail pipes and mufflers, brakes, radiators and electrical systems.

AUTOMOBILE REPAIR SERVICES, MAJOR. An establishment primarily engaged in one or more of the following activities:

- (1) General repair or service;
- (2) Engine repair;
- (3) Installation or repair of transmissions;
- (4) Installation or repair of automotive glass;
- (5) Installation or repair of exhaust systems;
- (6) Repair of tops, bodies and interiors; and
- (7) Automotive painting and refinishing.

AUTOMOBILE SALES. A surface area other than a street or a building, used for display, sale or rental of new or used automobiles, trucks, trailers or motorcycles where no repair work is done, except minor reconditioning of said motor vehicles or trailers to be displayed, sold or rented on the premises. Such area shall not include salvaged parts, nor shall it include the storage of either new or used motor vehicles or trailers that are not on display or for sale or rent.

AUTOMOBILE WRECKING, JUNK OR SALVAGE YARD. An automobile wrecking, junk or salvage yard is a lot upon which waste or scrap materials are bought, sold, exchanged, stored, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. Such yards by definition include an automobile wrecking lot upon which automobile parts are bought, sold, exchanged, stored, packed, disassembled or handled. Said yards do not include such uses conducted entirely within an enclosed building.

AWNING. A structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted from a building to a flat position against the building, but not a canopy.

BAKERY. A place for preparing, baking and selling baked goods and products prepared on the premises.

BANKING AND FINANCIAL SERVICES. A facility engaged in deposit banking or extending credit in the form of loans.

BAR. An establishment primarily engaged in the retail sale of beer or wine for consumption on the premises. Such establishment must obtain an ABC license for on-premise beer or wine consumption only. The establishment may also be engaged in the retail sale of prepared food for on-premise consumption.

BASE FLOOD. The flood having a 1 % chance of being equaled or exceeded in any given 100-year period.

BASE FLOOD ELEVATION. The elevation to which structures and uses regulated by this chapter are required to be elevated or flood proofed.

BASEMENT. A story of a building or structure having one-half or more of its clear height below grade. The lowest level or story which has its floor subgrade on all sides. (This definition applies only with respect to flood damage prevention regulations.)

BED AND BREAKFAST. A private home offering bed and breakfast accommodations to eight or fewer persons per night for a period of less than a week.

BERM, EROSION CONTROL. A mound of material and/or ditch the purpose of which is to divert the flow of run-off water.

BERM, LANDSCAPING. A mound or bank of earth the purpose of which is to provide a barrier or to provide insulation.

BICYCLE SALES AND REPAIR. A facility which provides for the repair and maintenance of bicycles and the repair of bicycles.

BLOCK. The land lying within an area bounded on all sides by streets.

BOARD OF ADJUSTMENT. A quasi-judicial body appointed by the Town Council and composed of residents of Haw River and its extraterritorial area which is empowered to hear appeals from decisions of the Enforcement Officer, provide recommendations regarding special use permits, and grant minor variances from the provisions of the Zoning Ordinance. In Haw River the Board of Adjustment and the

Planning Board are comprised of the same individuals, functioning as separate bodies according to the stated function and purpose of the meeting.

BOARDING HOUSE. A dwelling or part thereof in which the owner or operator provides lodging to more than three boarders.

BOTTLING WORK. A facility for the bottling of products for off-site retail sales.

BUFFER. An area of land set aside along the perimeter of a parcel of land in which landscaping is required to provide an aesthetic transition between different land uses and to eliminate or reduce the adverse environmental impact, and incompatible land use impacts.

BUFFER ZONE. The strip of land adjacent to a lake or natural watercourse, the width of which is measured from the edge of the water to the nearest edge of the disturbed area, with the 25% of the strip nearer the land disturbing activity containing natural or artificial means of confining visible siltation.

BUFFER ZONE, LANDSCAPING. A neutral area or strip of land located along property lines that serves to provide a transition between different land uses, eliminating or reducing incompatible land uses.

BUILDABLE OR ZONING LOT. One or more lots of record in one undivided ownership with sufficient total area, sufficient area exclusive of easement, flood hazards, well and septic tank fields, total dimensions, and street access to permit construction thereon of a principal building together with its required parking and planting yards.

BUILDING. Any structure having a roof supported by walls or columns constructed or used for residence, business, industry or other public or private purposes.

BUILDING HEIGHT. The vertical distance measured from the average elevation of the finished grade to the topmost section of the roof.

BUILDING INSPECTOR. An inspector employed by the Alamance County Inspections Department authorized to enforce state building, plumbing, heating and other codes within the Town of Haw River under Alamance County's central permitting system.

BUILDING LINE. A line perpendicular to the lot depth which establishes the horizontal distance between the structure and the front property line excluding the outermost steps, uncovered porches, gutters, and similar fixtures.

BUILDING SEPARATION. The minimum required horizontal distance between buildings.

BUILDING YARD. A building yard is a planting area parallel to a public street designed to provide continuity of vegetation and a pleasing view along the street.

CALIPER. A standard trunk diameter measurement for nursery grown trees taken six inches above the ground for up to and including four-inch caliper size, and 12 inches above the ground for larger sizes.

CANOPY. A permanent roofed structure, including marquees and awnings, either attached to and supported by a building or freestanding.

CAR WASH. A facility for the washing of automobiles, small recreational vehicles, and light trucks.

CARPORT. A roofed structure enclosed on not more than two sides and used for the parking of motor vehicles.

CEMETERY. Land and facilities, including offices and chapels, used for the burial of the dead.

CERTIFICATE OF COMPLIANCE. A statement issued by an authorized member of the Alamance County Inspections Department setting forth that the building, structure and/or use comply with the all applicable provisions of this zoning ordinance and North Carolina building codes and that the building or structure be used for the purposes stated on the certificate.

CHANGE OF USE. A change in the use of a structure or land for which a zoning permit is required.

CHURCH. A facility of a church, temple, synagogue, or other non-profit religious organization operated for worship and which may include religious training or study.

CLUB OR LODGE, PRIVATE. An establishment operated by a corporation or association of persons for social, recreational, fraternal or charitable purposes, but which is not operated for profit or to render a service which is customarily conducted as a business.

COMMON AREA(S). All areas, including private streets, conveyed to an owners' association within a development or owned on a proportional undivided basis in a condominium development.

COMMUNITY CENTER. A building used for recreational, social, educational, and cultural activities, open to the public and usually owned and operated by a public or nonprofit group or agency.

COMPLETION OF CONSTRUCTION OR DEVELOPMENT. The condition after which no further land disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.

CONDOMINIUM. Portions of real estate which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

CONGREGATE CARE FACILITY. A facility providing shelter and services for ambulatory individuals at least 55 years of age who by reason of their age, functional impairment, or infirmity may require meals, housekeeping and personal care assistance. Congregate care facilities do not include nursing homes or similar institutions devoted primarily to the care of the chronically ill or the incurable.

CONTIGUOUS AREA. Any area that abuts directly on a subject property or is separated from the subject property by a street or the right-of-way of a railroad or other utility or public service corporation.

CONVENIENCE STORE. Any retail establishment offering for sale gasoline, diesel fuel, kerosene, automotive products, prepackaged food products, household items, and/or other goods commonly associated with the same and having a gross floor area of less than 5,000 square feet.

COUNTY. Refers to Alamance County, North Carolina.

CURIO SHOP. See **SOUVENIR SHOP.**

DAY. Any reference to days shall mean calendar days unless otherwise specified. A duration of days shall include the first and last days an activity is conducted and all days in between, unless otherwise specified by state law.

DAY CARE. Any child or adult care arrangement for individuals who receive care away from their primary residence by persons other than their parents, children, grandparents, aunts, uncles, brothers, sisters, first cousins, nieces, nephews, guardians, or full-time custodians, where care is provided on a regular basis at least once per week for more than four but less than 24 hours per day.

DECIDUOUS. A plant or tree with foliage that is shed annually.

DEED RESTRICTION. A restriction on the use of a lot or parcel of land that is set forth in the deed and recorded with the Alamance County Register of Deeds. Also known as a restrictive covenant.

DETENTION POND. A pond which collects storm water runoff, filters the water, and releases it slowly over a period of hours or days. It does not have a permanent pool and is sometimes referred to as a dry pond or wet weather pond.

DEVELOPER. A person engaging in development.

DEVELOPMENT. Any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

DEVELOPMENT, DENSITY OF. The density of development shall be determined using a gross acreage system. The total area of the tract, including areas to be used for new streets, rights-of-way, drives, parking, structures, recreation areas, dedicated areas, and required setbacks shall be used for density calculations.

DISCHARGE POINT. The point at which runoff leaves a tract of land.

DISPOSAL (OF HAZARDOUS OR TOXIC SUBSTANCES). The destruction, discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste or toxic substance into or on any air, land, or water.

DISPOSAL FACILITY. A facility or part of a facility at which hazardous waste or toxic substance is intentionally placed into or on any land or water, and at which hazardous waste or toxic substance remain after closure.

DRAINAGEWAY. Any natural or man-made channel that carries surface runoff from precipitation.

DRAINAGEWAY AND OPEN SPACE AREA, DEDICATED. The area designated for flood plain and open space purposes on a recorded subdivision plat and thereby dedicated to the public for such purposes.

DRIP LINE. A vertical line from a tree canopy or shrub branch extending from the outermost edge to the ground.

DRY CLEANING AND LAUNDRY ESTABLISHMENTS. A building, portion of a building, or premises used for cleaning fabrics, textiles, wearing apparel, or articles of any sort by immersions in volatile solvents including, but not limited to petroleum distillates, and/or chlorinated hydrocarbons and any process incidental thereto.

DUPLEX DWELLING. A building on one lot arranged and designed to be occupied by two families living independently of each other. See **TWO-FAMILY DWELLING**.

DWELLING UNIT. One or more rooms designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided therein. Units in dormitories, hotels, motels, and shelters for the homeless or other structures designed for transient residents are not dwelling units.

EASEMENT. A grant of one or more of the property rights by the property owner to, or for use by, the public, a corporation, or other entity.

ELECTRONIC, INTERNET, OR SWEEPSTAKES GAMING.

(1) Any business or enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including, but not limited to, computers and gaming terminals, to conduct

games of chance, including, but not limited to, sweepstakes, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Such businesses or enterprises have as a part of its operation the running of one or more games or processes with any of the following characteristics:

(a) Payment, directly or as an intended addition to the purchase of a product, whereby the customer receives one or more electronic sweepstakes tickets, cards, tokens, or similar items entitling or empowering the customer to enter a sweepstakes, and without which item the customer would be unable to enter the sweepstakes; or

(b) Payment, directly or as an intended addition to the purchase of a product, whereby the customer can request a no purchase necessary free entry of one or more sweepstakes tickets or other item entitling the customer to enter a sweepstakes.

(2) The term ***ELECTRONIC GAMING OPERATIONS*** includes, but is not limited to, cyber-gambling establishments, internet cafes, internet sweepstakes, beach sweepstakes, video sweepstakes, or cybercafes, who have a finite pool of winners. This does not include any lottery endorsed or permitted by the State of North Carolina.

ELEVATED BUILDING. A non-basement building built to have the top of the elevated floor above the ground by means of fill, solid foundation with openings sufficient to facilitate the unimpeded flow of floodwaters, perimeter walls, pilings, columns (post and piers), shear walls, or breakaway walls.

ENFORCEMENT OFFICER. Either a building inspector with the Alamance County inspections department or the Town of Haw River enforcement officer who enforces zoning, subdivision and other development ordinances of the town.

ENGINEER. A person licensed to practice engineering in the State of North Carolina.

EVERGREEN. A plant or tree with foliage that persists year-round.

FACADE. The exterior wall of a building extending from grade to the top of the parapet, wall, or eaves that is exposed to public view.

FACIS. The general appearance, aspect, or nature of the face of a structure.

FAMILY.

(1) An individual;

(2) Two or more persons related by blood, marriage or adoption living together as a single housekeeping unit and sharing the same domestic facilities, and (unless the dwelling contains an accessory dwelling unit) may also include not more than two unrelated persons; or

(3) A group of not more than four persons who need not be related by blood, marriage, or adoption living together as a single housekeeping unit and sharing the same domestic facilities. The term ***FAMILY*** shall not be construed to include a fraternity or sorority, club, rooming house, institutional group or the like.

FAMILY CARE HOME.

(1) ***FAMILY CARE HOMES*** (also called group homes) are facilities that provide health, counseling, or related services to a small number of persons in a family type environment. Both state and federal laws affect zoning regulation of these facilities. G.S. 168-22, added to the statutes in 1981, provides that certain family care homes must be treated as single-family homes by local zoning ordinances. They cannot be prohibited in a district that allows single-family residences nor can they be subject to any special review requirements, such as a special or conditional use requirement.

(2) To qualify for this treatment, the facility must be designed to provide room, board, and care for six or fewer handicapped persons in a family environment. Handicapped persons include those with physical, emotional, or mental disabilities, but not those who have been deemed dangerous to themselves or to others.

FAMILY (GROUP) CARE HOME A. Pursuant to G.S. 168-21, a home for six or less individuals with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for resident persons with a temporary or permanent physical,

emotional, or mental disability including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments, but not including mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11b).

FAMILY (GROUP) CARE HOME B. Pursuant to G.S. 168-21, a home for seven to 20 individuals with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for resident persons with a temporary or permanent physical, emotional, or mental disability including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments, but not including mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11b).

FEED AND SEED STORE. Establishments primarily engaged in the retail sale of supplies directly related to the day-to-day activities of agricultural production.

FENCE. A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal or similar material used as a boundary or means of protection or confinement, but not including a hedge or other vegetation.

FENESTRATION. The arrangement and proportioning of windows and doors, etc. and the architectural decorating and composition of their openings and ornaments.

FLEA MARKET. A commercial operation held on a regular basis and patronized by individual entrepreneurs who transport a variety of merchandise (excluding motor vehicles, motor vehicle parts, tires, and mobile homes) to a common geographical area for the purpose of sale or trade to the general public. This definition does not include sporadic and infrequent yard sales held in residential areas.

FLOOD AND FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation of runoff of surface waters from any source.

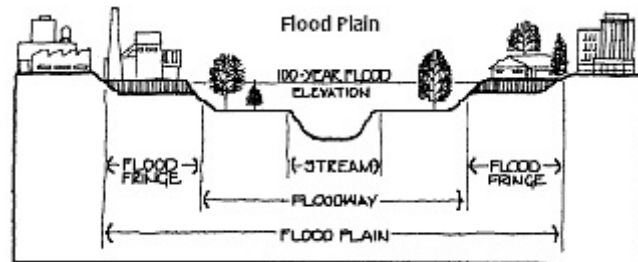
FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of the community, issued by the Federal Insurance Administration, where the boundaries of the area's special flood hazard have been designated as "Zone A, AE, AO, or A1-99."

FLOOD INSURANCE RATE MAP (FIRM). An official map of the community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency (FEMA). The report contains flood profiles, as well as the Flood Boundary/Floodway Map and the water surface elevation of the base flood.

FLOOD FRINGE. An area lying outside the floodway, but within the flood plain.

FLOOD PLAIN. The relatively flat area or low land adjacent to the channel of a river, stream, or watercourse, lake or other body of standing water, which has been or may be covered by flood water.



FLOOD PLAIN, FIVE-HUNDRED YEAR. The channel and area abutting a watercourse which would be covered with water during a 500-year flood as designated by reports and data provided by the Federal Emergency Management Agency.

FLOOD PLAIN, ONE-HUNDRED YEAR. The channel and area abutting a watercourse which would be covered with water during a 100-year flood as designated by reports and data provided by the Federal Emergency Management Agency.

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

FLOOR. The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

FLOOR AREA, GROSS. The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles or any space where the floor-to-ceiling height is less than six feet.

FOUNDRY. An establishment that melts metal and produces castings.

GOLF COURSE. An area designed for golf, including a Par 3 golf course, having at least nine holes, each with a tee, fairway, and green, and may have one or more hazards. A clubhouse, pool and other facilities associated with a country club built around a golf course are considered part of the golf course.

GOLF DRIVING RANGE. An open-air golf practice facility.

GRADE. A reference plane representing the average of finished ground level adjacent to any structure.

GRADING. Any operation or occurrence by which the existing site elevations are changed, or where any ground cover, natural or man-made, is removed, or any buildings or other structures are removed, or any water course or body of water, either natural or man-made, is relocated on any site, thereby creating an unprotected area. The term **GRADING** is interchangeable with “land disturbing activity.”

GREENWAY. Public open space owned and maintained by the local government, which has been designated on an officially adopted greenway plan.

GROCERY STORE. A retail establishment engaged in the business of selling groceries, meat, fruit, and vegetables.

GROUND COVER. Dense low growing plants other than turf-grass normally reaching an average height of not more than 24 inches at maturity.

GROUND LEVEL. For floodway purposes, the existing average elevation of the land.

GROUP CARE FACILITY.

(1) A **GROUP CARE FACILITY** is a transitional housing facility for not more than 20 people licensed by the State of North Carolina, which provides room and board, personal care and rehabilitation services while persons receive therapy and/or counseling for one or more of the following purposes:

(a) To assist them to recuperate from the effects of or refrain from the use of drugs or alcohol;

(b) To provide emergency and temporary shelter for persons in distress such as runaway children and battered individuals; and

(c) To provide shelter and support for older adults and persons who are handicapped.

(2) A **GROUP CARE FACILITY** shall not serve primarily as an alternative to incarceration. Such facilities may have accessory uses conducted on the premises, including, but not limited to, schooling of residents, training programs in occupational fields, and production of goods and crafts to be sold off-premises.

GROUP DEVELOPMENT. A development in which, in lieu of division of a tract of land into separate lots of record for separate principal buildings, a tract of land is divided into two or more principal building sites for the purpose of building development for residential, office or manufacturing or industrial uses. In Haw River, a shopping center is not considered a group development for purposes

of granting special use permits. The requirements for special use permits for group developments and shopping centers are different.

GROUP HOME. See **FAMILY CARE HOME.**

GROUP HOMES FOR DEVELOPMENTALLY DISABLED ADULTS. Group home for developmentally disabled adults means an adult care home which has two to nine developmentally disabled adult residents. Group homes for developmentally disabled adults are divided into the following types:

- (1) Homes operated by private non-profit boards;
- (2) Governmentally-operated homes;
- (3) Private for profit homes; and
- (4) Private for profit or private non-profit group homes.

Both private non-profit and private for profit group homes for developmentally disabled adults must apply through and be approved by the county departments of social services and licensed by the Division of Health Service Regulation. The division of social services and the county departments do not have responsibility for approving governmentally-operated (public) group homes; however, this type of group home must be licensed by the Division of Health Service Regulation.

HABILITATION FACILITY. Any facility in which handicapped persons receive habilitation services, rehabilitation services or engage in recreational activities, regardless of whether these services and activities are therapeutic or educational in nature. These facilities are licensed by the State of North Carolina and do not provide room and board. This definition does not include the principal uses schools, elementary or schools, secondary. These facilities are intended to serve handicapped persons as defined by state law, in accordance with rights provided by applicable laws.

HAZARDOUS OR TOXIC SUBSTANCE. Any solid waste as defined in G.S. 130A-290(8), or any substance regulated under the Federal Toxic Substance Control Act of 1976, (PL 94-476), as amended from time to time, which because of its quantity, concentration, or physical chemical or infectious characteristic(s) may:

- (1) Cause or significantly contribute to an increase in serious irreversible or incapacitating illness, or;
- (2) Pose a substantial present or potential threat to the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

HAZARDOUS WASTE GENERATOR. Any person whose act or process produces hazardous waste or toxic substance identified or listed in Part 261 of the North Carolina Hazardous Waste Management Rules or whose act first causes a hazardous waste or toxic substance to become subject to regulation provided that “generator” does not include a facility which accepts hazardous waste or toxic substances for the purpose of treatment, storage, or disposal, and in that process creates a different hazardous waste or toxic substance.

HAZARDOUS WASTE LONG-TERM STORAGE FACILITY. Any facility or any portion of a facility constructed for storage of the residuals of the treatment of hazardous waste, on or in land.

HAZARDOUS WASTE MANAGEMENT. The systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of hazardous wastes.

HAZARDOUS WASTE TREATMENT FACILITY. A facility which is established and operated for the recovery, recycling, treatment, storage during collection and prior to treatment, short-term storage after treatment, collection, processing, volume reduction, source separation, or transportation used exclusively in connection with the facility, of hazardous waste; and which facility includes several of the following equipment and processes. Incinerators, rotary kilns, drum handling, washing and crushing facilities, raw waste tank storage, reduction, neutralization, detoxification, wastewater treatment facilities including settling systems, aerobic digester, anaerobic digester, clarifiers, neutralization facilities, solidifying facilities, evaporators, reactions to facilitate “reuse” or recycling, analytical capabilities, and other similar appropriate technologies, activities and processes as may now exist or be developed in the future.

HEDGE. A landscape barrier consisting of a continuous, dense planting of shrubs, not necessarily of the same species.

HISTORICAL STRUCTURE. Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places;

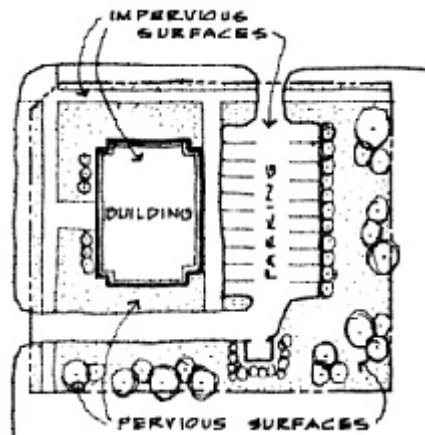
(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified:

(a) By an approved state program as determined by the Secretary of Interior; or

(b) Directly by the Secretary of Interior in states without approved programs.

HOME OCCUPATION. Any use conducted entirely within a dwelling and carried on by the occupants of the dwelling, which use is incidental and secondary to the use of the dwelling for residential purposes and doesn't change its character.

IMPERVIOUS SURFACE COVERAGE. That portion of a lot covered by buildings, structures, paving or other impervious surface materials.



INDEPENDENT LIVING FACILITIES. Absence of health services, covers a broad range of settings in which persons, as a matter of preference and lifestyle, move into adult communities that impose age restrictions, offer social activities, and, often, increased security.

INFILL DEVELOPMENT. The construction of a building on a vacant parcel located in a predominantly built up area.

JUNKED MOTOR VEHICLE. A motor vehicle that does not display a current license plate and is one or more of the following:

- (1) Partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which originally intended.

JUNK/SALVAGE YARD. The use of more than one acre (43,560 sq. ft.) for the storage, keeping, or accumulation of material, including scrap metals, waste paper, rags, or other scrap materials, or used building materials, for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

KENNEL. A use or structure intended and used for the breeding or accommodation of small domestic animals for sale and/or for the training or overnight boarding of animals for persons other than the owner of the lot. This definition shall not include a veterinary clinic in which the overnight boarding of animals is necessary for or accessory to the testing and medical treatment of the physical disorders of animals.

LAKE OR NATURAL WATERCOURSE. Any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.

LAND-DISTURBING ACTIVITY. See **GRADING**.

LANDFILL, DEMOLITION AND CONSTRUCTION DEBRIS. A disposal site for stumps, limbs, leaves, concrete, brick, wood and uncontaminated earth. Disposal of any other types of wastes must be approved by the State Division of Health Services.

LANDFILL, SANITARY/SOLID WASTE. A site for solid waste disposal from residential, industrial, or commercial activities.

LANDOWNER. Any owner of a legal or equitable interest in real property, including heirs, devisees, successors, assigns, and personal representatives of such owner.

LANDSCAPE ARCHITECT. A person licensed to practice landscape architecture in the State of North Carolina.

LANDSCAPE MATERIAL. Plants such as grass, ground cover, shrubs, vines, hedges, trees and nonliving material such as rock, pebbles, sand, mulch, stepping stones, etc.

LANDSCAPE PLAN. A plan indicating all landscape areas, storm-water retention or detention areas, which qualify to be excluded from maximum permitted lawn area, existing vegetation to be retained, proposed plant material, landscape legend, landscape features, planting specifications and details and all other relevant information in compliance with this article.

LAWN AREA. An area planted with lawn grasses.

LIBRARY, PUBLIC. A publicly operated facility housing a collection of books, magazines, audio and video tapes, or other material for use by the general public.

LOT. A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law to be separately owned, used, developed, or built upon.

LOT, CORNER. A lot abutting two or more streets at their intersection.

LOT COVERAGE. The portion of a lot covered by buildings(s) and/or structure(s).

LOT DEPTH. The distance measured along the perpendicular bisector of the smallest possible rectangle enclosing the lot.

LOT, FLAG. A lot, created by a subdivision, with less street frontage than is required by § 155.120 and composed of a narrow “flagpole” strip extending from the street and a much wider “flag” section lying immediately behind a lot or lots having the required street frontage for a conventional lot. In the case of a flag lot, the lot line at the end of the flag pole lying generally parallel to the street to which the flagpole connects shall be considered to be the front lot line for setback purposes.

LOT LINE. A line or series of connected line segments bounding a lot.

LOT LINE, FRONT. Any boundary line of a lot running along a street right-of-way line.

LOT LINE, REAR. The property line(s) which is (are) opposite the front property line. If no property line is deemed to be opposite the front property line and no minimum building line exists on the final plat to establish a rear lot line, then there shall be no rear lot line; however, the rear yard setback shall be maintained from the point (apex) on the property's perimeter which is the furthest removed from the midpoint of the front line. The rear yard minimum building line shall be a line perpendicular to a straight line connecting said apex and the midpoint on the front lot line.

LOT LINE, SIDE. A lot line other than a front or rear lot line.

LOT OF RECORD. A lot, plot, parcel or tract recorded in the Office of the Register of Deeds in conformance with the ordinance(s) in effect at the time of recordation.

LOT, REVERSE FRONTAGE. A through lot which is not accessible from one of the parallel or nonintersecting streets upon which it fronts.

LOT, THROUGH. A lot abutting two streets that do not intersect at the corner of the lot.

LOT WIDTH. The mean width measured at right angles to its depth at the building line.

MANUFACTURED DWELLING. A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, when erected on site, is 320 or more square feet in floor area, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to utilities, and includes the plumbing, heating, and electrical systems contained therein; or a structure that otherwise comes within the definition of a “manufactured home” under the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5401-5445).

(1) *Class “A” Manufactured Homes.* Class A manufactured home is a doublewide or multi-sectioned manufactured housing unit which meets the U.S. Department of Housing and Urban Development manufactured home construction standards and satisfies the following criteria:

- (a) Is occupied only as a single-family dwelling;
- (b) Has a length not exceeding four times its width, with length measured along the longest axis and width measured perpendicular to the longest axis at the narrowest part;
- (c) Has a minimum of 700 square feet of enclosed and heated living area;
- (d) Has the towing apparatus, wheels, axles, and transporting lights removed and not included in length and width measurements;
- (e) Is set up in accordance with the standards established by the North Carolina Department of Insurance. In addition, a continuous, permanent brick or stone foundation or masonry curtain wall constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for One- and Two-Family Dwellings, unpierced except for required ventilation and access, shall be installed under the perimeter;
- (f) Has exterior siding, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction, consisting of one or more of the following:
 - 1. Vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint);
 - 2. Cedar or other wood siding;
 - 3. Wood grain, weather resistant press board siding;
 - 4. Stucco siding; or
 - 5. Brick or stone siding.
- (g) Has a roof pitch minimum with a vertical rise of four feet for each 12 feet of horizontal run;
- (h) All roof structures shall provide an eave projection no less than six inches, which may include a gutter; and
- (i) Stairs, porches, entrance platforms, ramps and other means of entrance and exit installed or constructed in accordance with the standards set by the North Carolina State Building Code,

attached firmly to the primary structure and anchored securely to the ground. Wood stairs shall only be used in conjunction with a porch or entrance platform with a minimum area of 24 square feet. The use of wood stairs only is prohibited at any entrance.

(2) *Class “B” Manufactured Homes.* Class B manufactured home is a singlewide manufactured housing unit which meets the U.S. Department of Housing and Urban Development manufactured home construction standards that meet or satisfies criteria (1)(e) and (1)(g) above for Class A manufactured dwellings.

(3) *Class “C” Manufactured Homes.* Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured dwellings above.

MANUFACTURED DWELLING PARK. A group development site with required improvements and utilities for the long-term location of three or more manufactured dwellings for rental purposes, which development may include services and facilities for the residents.

MANUFACTURED DWELLING SPACE. A designated area of land within a manufactured dwelling park designed for the accommodation of a single manufactured dwelling in accordance with the requirements of this chapter.

MASSAGE THERAPY. Any massage or body work therapy as defined by the North Carolina Massage and Bodywork Therapy Practice Act, G.S. Ch. 90 Art. 36, provided by a person licensed as provided therein to perform such therapy.

MEAT OR POULTRY PROCESSING PLANT. An establishment primarily engaged in the slaughtering of cattle, chicken, hogs, sheep, lambs, and calves for meat to be sold or to be used on the same premises in canning, cooking, curing, and freezing.

MEDICAL OR DENTAL OFFICE. An establishment primarily engaged in furnishing medical and dental services to individuals and licensed for such practice by the state.

MODULAR DWELLING. A dwelling unit that is composed of components substantially assembled in an off-site manufacturing plant, transported to the building site for final assembly on a permanent foundation, and is constructed in compliance with the North Carolina State Building Code. Minimum design standards for modular dwellings specified in G.S. 143-139.1 require:

(1) *Roof pitch.* For homes with a single predominant roofline, the pitch of the roof shall be no less than five feet rise for every 12 feet of run.

(2) *Eave projection.* The eave projections of the roof shall be no less than ten inches, which may not include a gutter around the perimeter of the home, unless the roof pitch is 8/12 or greater.

(3) *Exterior wall.* The minimum height of the exterior wall shall be at least seven feet six inches for the first story.

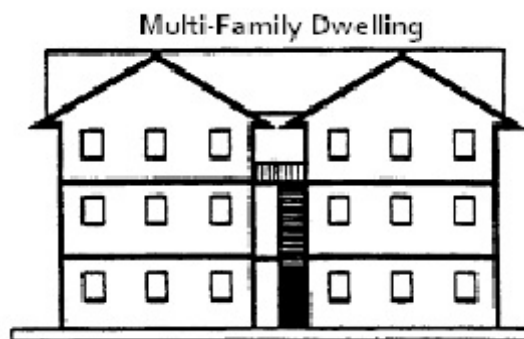
(4) *Siding and roofing materials.* The materials and texture for the exterior materials shall be compatible in composition, appearance, and durability to the exterior materials commonly used in standard residential construction.

(5) *Foundations.* The home shall be designed to require foundation supports around the perimeter. The supports may be in the form of piers, pier and curtain wall, piling foundations, a perimeter wall, or other approved perimeter supports.

MOTOR VEHICLE. Any vehicle that is self-propelled and every vehicle designated to run upon the highways that is pulled by a self-propelled vehicle. For purposes of this definition, the term **MOTOR VEHICLE** shall not include vehicles or implements used in farming or construction but shall include all forms of motorized watercraft.

MULCH. Non-living organic materials customarily used in landscape design to prevent erosion and weed infestation, and to retain moisture for use in planting areas.

MULTI-FAMILY DWELLING. A building or portion thereof used or designed as a residence for two or more families living independently of each other with separate housekeeping and cooking facilities for each, and includes apartment, townhouses and condominiums.



MULTI-UNIT ASSISTED HOUSING WITH SERVICES. An assisted living residence in which hands-on personal care services and nursing services which are arranged by housing management are provided by a licensed home care or hospice agency, through an individualized written care plan. The housing management has a financial interest or financial affiliation or formal written agreement which makes personal care services accessible and available through at least one licensed home care or hospice agency. The resident has a choice of any provider, and the housing management may not combine charges for housing and personal care services. All residents, or their compensatory agents, must be capable, through informed consent, of entering into a contract and must not be in need of 24-hour supervision. Assistance with self-administration of medications may be provided by appropriately trained staff when delegated by a licensed nurse according to the home care agency's established plan of care. Multiunit assisted housing with services programs are required to register with the Division of Health Service Regulation.

MUSEUM. An institution that is established for the purpose of acquiring, conserving, studying, interpreting, assembling and exhibiting to the public for its instruction or enjoyment, a collection of artifacts of historical interest.

NEW CONSTRUCTION. Structures for which the “start of construction” commenced on or after the effective date of this chapter, including any subsequent improvements to such structures.

NONCONFORMING. A lot, structure, sign, or use of land which is now prohibited under the terms of this chapter but was lawful at the date of this chapter’s enactment or any amendment or revision thereto.

NONCONFORMING LOT(S). A lot of record that does not conform to the dimensional requirements of the zoning district in which it is located. The nonconformity may result from adoption of this chapter or any subsequent amendment.

NONCONFORMING STRUCTURE(S). A structure that does not conform to the requirements of this chapter. The nonconformity may result from adoption of this chapter or any subsequent amendment.

NONCONFORMING USE. A use which was a permitted use on a parcel of land or within a structure but which is not now a permitted use. The nonconformity may result from the adoption of this chapter or any subsequent amendment.

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR). A state agency having jurisdiction over environmental permits and activities, as well as permits for drinking water, stormwater and wastewater systems.

NURSING HOME. Nursing homes are facilities that provide nursing or convalescent care for three or more persons unrelated to the licensee, that are for chronic or convalescent patients who are acutely ill and do not require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. **NURSING HOMES** provides care for persons who have remedial ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision. Adult care homes may be operated as part of a **NURSING HOME**.

OFFICE. A use or structure in which business or professional services are conducted or rendered.

OUTDOOR OUTFITTING SHOP. A store which offers clothing and equipment, excluding motorized vehicles, for outdoor activities.

OUTPARCELS. Properties or portions of properties left undeveloped at the time of initial development.

OWNER. A holder of any legal or equitable estate in the premises, whether alone or jointly with others, and whether in possession or not.

PARCEL. A piece or area of land formally described and recorded with block and lot numbers, by metes and bounds, by ownership, or in such a manner as to specifically identify the dimensions and/or boundaries.

PEDESTRIAN WAY. A right-of-way or easement dedicated to public use to facilitate pedestrian access to adjacent streets and properties.

PERSON. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, or public or private institution, utility, cooperative, interstate body or other legal entity.

PLANNED UNIT DEVELOPMENT. An area of land under unified ownership or control to be developed and improved as a single entity under a unified development plan in accordance with and subject to the requirements of this chapter.

PLANNING BOARD. The Town Planning Board appointed by the Town Council to carry out the duties set forth in G.S.160A-361. In Haw River the Planning Board and the Board of Adjustment are comprised of the same individuals, who function as separate bodies according to the stated function and purpose for which a meeting is called.

PLAT. A surveyed map or plan of a parcel of land which is to be, or has been subdivided.

PRINCIPAL BUILDING. A building in which is conducted the principal use of the zoning lot on which it is located or, in a group development, of the building site on which it is located. Any dwelling is considered a principal building unless it is an accessory dwelling.

PRINCIPAL DWELLING. Any principal building or structure, or portion thereof which is used and designed for human habitation including living, sleeping, cooking and eating activities excluding dormitories, hotels, motels, shelters for the homeless or other structures designed for transient residents.

PRINCIPAL STRUCTURE. A structure(s) in which is conducted the principal use(s) of the lot on which it is located.

PROPERTY. All real property subject to the zoning regulations, restrictions and zoning boundaries of the Town of Haw River zoning ordinance.

PUBLIC. Under the control or responsibility of the Town Council on behalf of the general population, rather than individual or private control.

PUBLIC SEWER. A system which provides for the collection and treatment of sanitary sewage for more than one property and is owned and operated by a government organization or sanitary district.

PUBLIC WATER. A system which provides distribution of potable water to more than one property and is owned and operated by a government organization or sanitary district.

QUARRY. An operation for the dredging, digging, extraction, mining, or quarrying of stone, sand, gravel, or minerals for commercial purposes.

RECREATIONAL VEHICLE. A vehicle built on a single chassis, designed to be self-propelled or permanently towable by a light duty vehicle, and designed primarily for use not as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

RECREATIONAL VEHICLE PARK. Any site or tract of land, of contiguous ownership, upon which 15 or more recreational vehicles or tent spaces are provided for occupancy according to the requirements set forth in this chapter.

RECREATIONAL VEHICLE SPACE. A plot of land within a recreational vehicle park designed for the accommodation of one recreational vehicle in accordance with the requirements set forth in this chapter.

RECYCLING COLLECTION POINT. An incidental use that serves as a neighborhood drop-off for temporary storage of recoverable resources.

RESERVATION. An obligation shown on a plat or site plan to keep property free from development and available for public acquisition for a stated period of time. It is not a dedication or conveyance.

RESTAURANT (WITH DRIVE-THROUGH SERVICE). An establishment which delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.

RESTAURANT (WITHOUT DRIVE-THROUGH SERVICE). An establishment that serves prepared food and beverages primarily to customers seated at tables or counters located within the building or designated outdoor seating areas. This includes cafes, tea rooms, and outdoor cafes.

RESTRICTIVE COVENANT. See ***DEED RESTRICTION.***

ROOF LINE. The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

ROOF PITCH OR SLOPE. The slope or angle of the sides of a roof expressed by the ratio of its height to its span (rise over run).

ROOMING HOUSE. A dwelling or part thereof, in which individual rooms are rented to more than three persons.

SALVAGE YARD, SCRAP PROCESSING. Any land or area used, in whole or part, for the storage, keeping, accumulation of scrap or waste materials, including scrap metals, waste paper, rags, building materials, machinery, or other scrap materials.

SEATING CAPACITY. The actual seating capacity of an area based upon the number of seats or one seat per 18 inches of bench or pew length. For other areas where seats are not fixed, the seating capacity shall be determined as indicated by the NC Building Code.

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

SEDIMENTATION. The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.

SERVICE STATION, MAJOR REPAIR. A service station that, in addition to pumping gas, is engaged in one or more of the following activities:

- (1) General repair or service;
- (2) Engine repair;
- (3) Installation or repair of transmissions;
- (4) Installation or repair of automotive glass;
- (5) Installation or repair or exhaust systems;
- (6) Repair of tops, bodies and interiors; and
- (7) Automotive painting and refinishing.

SERVICE STATION, MINOR REPAIR. A service station that, in addition to pumping gas, is engaged in one or more of the following activities:

- (1) Diagnostic service and tune-ups;

(2) Installation or repair of air-conditioners, brakes, carburetors, electrical systems, fuel systems, generators and starters, and radiators;

(3) Lubricating service; and

(4) Front end and wheel alignment.

SETBACK. The minimum required horizontal distance between a structure or activity and the property line, street right-of-way line, or street centerline.

SETBACK, INTERIOR. A setback from any property line not alongside a street.

SETBACK, REAR. A setback from an interior property line lying on opposite side of the lot from the front street setback.

SETBACK, SIDE. Any interior property line setback other than a rear setback.

SETBACK, STREET. Any setback from a street, road or lane.

SETBACK, ZERO SIDE. An alternate form of dimensional requirements that allows a dwelling unit to have one side setback of zero (0) from a side property line. This definition does not include townhouses.

SHELTER, EMERGENCY. A facility providing, without charge, temporary sleeping accommodations, with or without meals, for individuals and/or families displaced from their residences as a result of sudden natural or man-made catastrophes including, but not limited to, earthquake, fire, flood, tornado, hurricane, or the release of hazardous or toxic substance(s) into the environment. Such a natural or man-made catastrophe must be designated by the responsible local, state, or federal official or an emergency agency such as the American Red Cross or the Emergency Management Assistance Agency.

SHELTER FOR THE HOMELESS. A facility operating year-round which provides lodging and supportive services including, but not limited to, a community kitchen; assistance in obtaining permanent housing, medical counseling, treatment, and/or supervision; psychological counseling, treatment, and/or supervision; assistance in recuperating from the effects of or refraining from the use of drugs and/or alcohol; nutritional counseling; employment counseling; job training and placement; and child care for indigent individuals and/or families with no regular home or residential address; and which complies with the following requirements.

(1) The facility shall be contained within the building of and operated by a government agency or nonprofit organization;

(2) A minimum floor space of 50 square feet shall be provided for each individual sheltered; and

(3) The facility operator(s) shall provide continuous on-site supervision by an employee(s) and/or volunteers(s) during the hours of operation.

SHELTER TEMPORARY. A facility which provides temporary lodging during times of life-threatening weather conditions for indigent individuals and/or families with no regular home or residential address; and which complies with the following requirements:

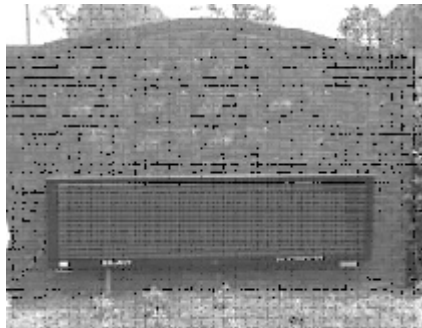
(1) The facility shall be contained within the building of and operated by a government agency or nonprofit organization;

(2) A minimum floor space of 50 square feet shall be provided for each individual sheltered; and

(3) The facility operator(s) shall provide continuous on-site supervision by an employee(s) and/or volunteer(s) during the hours of operation.

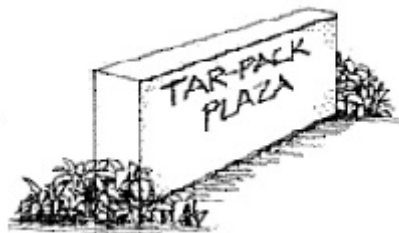
SHRUB. A self-supporting woody perennial plant normally growing to a height of 24 inches or greater, characterized by multiple stems and branches continuous from the base.

SIGN. A sign is any words, lettering, parts of letters, pictures, figures, numerals, phrases, sentences, emblems, devices, design, trade names, or trademarks by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity, or product, which are visible from any public way and used to attract attention.

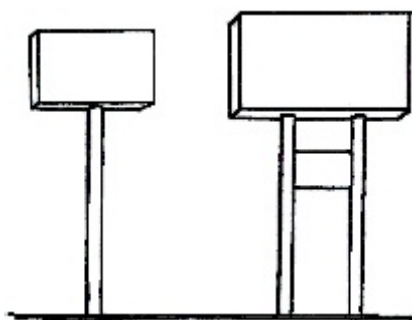


SIGN, ELECTRONIC READER BOARD. A sign or portion thereof which can be electronically changed or rearranged without altering the face or the surface of the sign. A sign on which the only copy that changes is an electronic or mechanical indication of time and/or temperature shall not be a commercial message or an electronic reader board sign for purposes of this sign code.

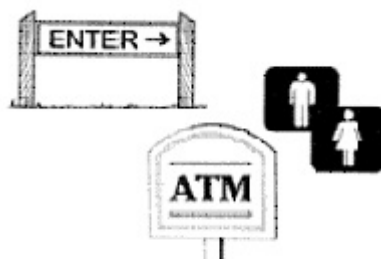
SIGN, FREE-STANDING, MONUMENT. A permanent, freestanding sign mounted on a base or other supports.



SIGN, FREE-STANDING, POLE. A permanent, freestanding sign that is mounted on a pole(s) or other support(s) that is placed on and anchored in the ground or on a base and that is independent from any building or other structure.



SIGN, INCIDENTAL. A sign intended for informational purposes as opposed to commercial or advertising purposes. Typically smaller in size, examples of incidental signs include parking signs, restroom signs and entrance and exit signs.



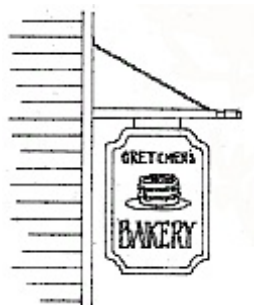
Incidental Signs

SIGN, KNOCKOUT. A sign where the light source is placed in a channel behind the letters with light forming a “halo” or silhouette of the letters.

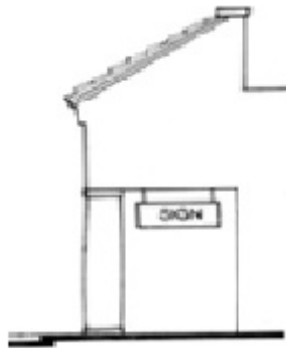
SIGN, MARQUEE. A sign affixed to the top of any hood or canopy over the entrance to a store, building or place of public assembly.

SIGN, OUTDOOR ADVERTISING. An off-premises outdoor structure or display, either freestanding or attached to a wall which advertises or attracts attention to a business, commodity service or other activity conducted, sold or offered elsewhere than on the premises on which the structure or display is located.

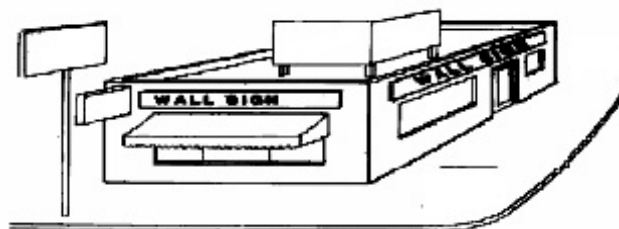
SIGN, PROJECTING. A sign attached to and supported by a building and extending beyond the building to which it is attached at an angle of 30 degrees or more.



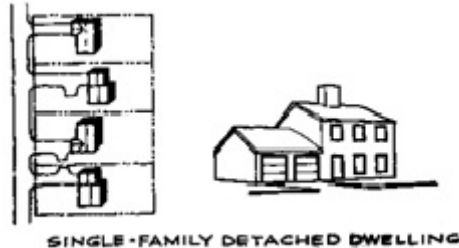
SIGN, SUSPENDED. A sign, which is suspended from the underside of a horizontal plane surface, such as a canopy or marquee, and is supported by such surface.



SIGN, WALL. A sign attached to or painted on a wall of a building, with the exposed display surface of the sign in a plane parallel to the plane of the wall to which it is attached or painted, and including signs affixed to or otherwise displayed on or through a facade window.



SINGLE-FAMILY DETACHED DWELLING. A separate, detached building designed for and occupied exclusively by one family.



SITE. All contiguous land and bodies of water in one ownership, or contiguous property in diverse ownership graded or proposed for grading or development as a unit.

SITE SPECIFIC DEVELOPMENT PLAN. A plan of land development submitted to the appropriate approval authority for the purpose of obtaining one of the following zoning or land use permits or approvals pursuant to G.S. 160A-385.1:

- (1) A special use permit;
- (2) A conditional zoning sketch or site plan;
- (3) A Planned Development;
- (4) A preliminary plat for a major subdivision; and/or
- (5) A preliminary plat for a minor subdivision.

SOLID WASTE. Garbage, refuse and other discarded solid materials.

SOUVENIR SHOP. Establishments engaged in the retail sale of gifts or souvenirs.

SPECIAL USE PERMIT. A special use permit may be granted by the Town Council for a specified land use which is permitted in a given zoning district under ordinance provisions which authorize the use when the Board makes specified findings. Special use features introduce flexibility into the zoning ordinance so that uses that might otherwise be unsuitable in a district can be made satisfactory to the neighbors.

START OF CONSTRUCTION. Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footing, installation of piles, construction of columns, or any work beyond the

stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual **START OF CONSTRUCTION** means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building. (This definition applies only with respect to flood hazard regulations.)

STORM WATER RUNOFF. The direct runoff of water resulting from precipitation in any form.

STREAM. A water course that collects surface runoff.

STREET. A right-of-way for vehicular travel.

STREET, ARTERIAL. A federal and/or state highway designed primarily for the movement of large volumes of vehicular traffic from one area or region to another; a thoroughfare.

STREET, COLLECTOR. A public way designed primarily to connect minor streets with arterial streets and/or to provide direct connection between two or more arterial streets and which may be designed to carry significant volumes of vehicular traffic having neither origin nor destination on the street.

STREET, PRIVATE. An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to parking and service areas; it is not maintained nor intended to be maintained by the public.

STREET, PUBLIC. A right-of-way or fee simple tract of land that has been set aside for public travel, dedicated to the public by the recording of a subdivision plat, built to public street standards, and eligible for maintenance by either the Town of Haw River or the NCDOT. Alleys are specifically excluded.

STRUCTURE. A walled and roofed building, a manufactured home including a gas or liquid storage tank, or other man-made facilities or infrastructures that are principally above ground. (This definition applies only with respect to flood hazard regulations.) Anything constructed, erected, or placed.

SUBDIVIDER. Any person, firm, corporation, or entity that subdivides or develops any land deemed to be a subdivision as herein defined.

SUBDIVISION. All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions are created for the purpose of sale or building development (whether immediate or future) and includes all divisions of land involving the dedication

of a new street or a change in existing streets; provided, however, that the following shall not be included within this definition:

(1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town of Haw River Subdivision Regulations;

(2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;

(3) The public acquisition by purchase of strips of land for the widening or opening of streets or the location of public utility rights-of-way;

(4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Town of Haw River Subdivision Regulations;

(5) The division of land into plots or lots for use as a cemetery; or

(6) Subdivisions resulting from proceedings to partition interests in lots or parcels pursuant to G.S. Ch. 46 (or any successor statute) resulting in the division of a lot or parcel into two or more lots or parcels except where the partition proceeding is brought to circumvent the provisions of this chapter or the Town of Haw River Subdivision Regulations.

SWIMMING POOL. A water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level the surrounding land, or an above-surface pool, having a depth of more than 30 inches designed, used and maintained for swimming and bathing.

SWIMMING POOL, NONPERMANENT. A swimming pool that is so constructed that it may be readily disassembled for storage and reassembled to its original integrity.

TEMPORARY BUILDING. Any building of an impermanent nature or which is designed for use for a limited time, including any tent or canopy.

TEMPORARY STRUCTURE. Any structure of an impermanent nature or which is designed for use for a limited time, including any tent or canopy.

TENANT. Any person who alone or jointly or severally with others occupies a building under a lease or holds a legal tenancy.

TENANT DWELLING. A dwelling located on a bona fide farm and which is occupied by a farm worker employed for agricultural purposes by the owner or as operator of the farm.

THEATER, ADULT. An enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual activities or anatomical areas.

THOROUGHFARE PLAN. A plan adopted by the governing body for the development of existing and proposed major streets that will adequately serve the future travel needs of an area in an efficient and cost effective manner.

TOWNHOUSE DWELLING. Single-family residences attached to one another in which each unit is located on an individually owned parcel, generally within a development containing drives, walks and open areas owned in common.



TOWNHOUSE LOT. A parcel of land intended as a unit for transfer of ownership and lying underneath, or underneath and around, a townhouse, patio home, or unit in nonresidential group development.

TRACT. An area, parcel, site, piece of land, or property that is the subject of a development application.

TRUCK GARDEN. A farm raising produce that is meant to be sold locally.

TWO-FAMILY DWELLING. A building on one lot arranged and designed to be occupied by two families living independently of each other. See ***DUPLEX DWELLING.***

UNDEVELOPED SITE. A premises that does not contain a structure or building for which a building permit is required.

USE. The purpose or activity for which land or structures are designed, arranged or intended, or for which land or structures are occupied, or maintained.

USE, ACCESSORY. A structure or use that:

- (1) Is clearly incidental to and customarily found in connection with a principal building or use;

- (2) Is subordinate to and serves a principal building or a principal use;
- (3) Is subordinate in area, extent, or purpose to the principal building use served;
- (4) Contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and
- (5) Is located on the same zone lot as the principal building or use served.

USE, DISSIMILAR. Proximate or directly associated land uses, which are contradictory, such as higher intensity, residential, commercial or industrial uses, located adjacent to lower intensity uses.

USE, MIXED. Occupancy of building or land by more than one use.

USE(S), PRINCIPAL. The primary function that a lot or structure serves or is proposed to serve.

USE, TEMPORARY. A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

UTILITIES. Facilities of any agency which, under public franchise or ownership, provide the general public with electricity, gas, oil, water, sewage, electronic sign, or rail transportation. The term “utility” shall not be construed to include the following: corporate or general offices; storage or service buildings or yards; gas or oil processing, manufacturing or storage facilities; transmission towers; or postal facilities.

UTILITY EASEMENT. An easement which grants to the Town Council or other utility providers the right to install and thereafter maintain any and all utilities including, but not limited to, water lines, sewer lines, septic tank drain fields, storm sewer lines, electrical power lines, telephone lines, natural gas lines and community antenna television systems.

VARIANCE. Official permission from the Board of Adjustment to depart from the requirements of this chapter.

VEHICULAR USE AREA (VUA). A hard surface area designed or used for off street parking and or an area used for loading, circulation, access, storage, including fire trucks, garbage trucks or display of motor vehicles.

VESTED RIGHT (ZONING). A right established pursuant to the provisions of this chapter to undertake and complete the development and use of property.

VETERINARY SERVICES. See **ANIMAL HOSPITAL.**

WAREHOUSING. Establishments primarily engaged in the warehousing and storage of general merchandise, refrigerated goods, and farm products.

WAREHOUSING, SELF STORAGE. Establishments primarily engaged in the rental or leasing of mini-warehouses and self-storage units.

WASTE. Surplus materials resulting from on-site construction and disposed of at other locations.

WATERSHED CRITICAL AREA. That portion of a watershed within one-half mile of the normal pool elevation of a water supply reservoir.

WATERSHED, WATER SUPPLY. All other parts of a watershed in Alamance County draining directly into a water supply reservoir. A watershed is defined as an area in which all water drains to a particular body of water.

YARD. Any open space on the same lot with a building, and unoccupied from the ground upward except by trees, shrubbery, or fences.

YARD, FRONT. A yard across the full width of the lot, extending from the front line of the building to the front lot line.

YARD, REAR. A yard located behind the rear line of the main building, if extended, to the perimeter of the lot.

YARD, SIDE. A yard between the building and side lot line, extending from the front building line to the rear building line.

ZONING DISTRICTS. An area defined by this chapter and delineated on the official zoning maps in which the requirements for the use of land and building and development standards are prescribed.

ZONING ENFORCEMENT OFFICER. An employee of the Town of Haw River authorized to enforce the provisions of this chapter within the town and its area of zoning jurisdiction.

ZONING PERMIT. A permit issued by the Zoning Enforcement Officer or other duly authorized official of the Town of Haw River certifying that the proposed use of land complies with the provisions of this chapter.

ZONING VESTED RIGHT. A right pursuant to G.S. 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site development plan. (Ord. passed 11-2-15; Am. Ord. passed 1-7-19)

*ESTABLISHMENT OF DISTRICTS***§ 155.020 DISTRICT NAMES.**

The Town of Haw River and its extraterritorial zoning jurisdiction is hereby divided into the following zoning districts and overlay district:

R-18	-	Low Density Residential District
R-12	-	Medium Density Residential District
R-7	-	High Density Residential District
R-G	-	General Residential District
I-C	-	Institutional and Community Use District
B-3	-	Neighborhood Business District
B-2	-	General Business District
B-1	-	Central Business District
B-1.2	-	Central Business District II
I-1	-	Light Industrial District
I-2	-	Heavy Industrial District
CR	-	Conditional Residential District
CB	-	Conditional Business District
CI	-	Conditional Industrial District
CMX	-	Conditional Mixed Use District

WSII-CA(O) Watershed II Critical Area (Overlay District)
(Ord. passed 11-2-15; Am. Ord. passed 6-18-18)

§ 155.021 DISTRICT BOUNDARIES SHOWN ON ZONING MAP.

Zoning district boundaries are shown on the accompanying map known as the “Official Zoning Map of the Town of Haw River, North Carolina,” which may be cited as The Zoning Map. This map, and all notations, references, amendments and other information shown on the map shall be as much a part of this chapter as if fully described herein. The zoning map is posted at the Haw River Town Hall and is available for inspection by the public.

(Ord. passed 11-2-15)

§ 155.022 RULES OF INTERPRETING DISTRICT BOUNDARIES.

Where uncertainty exists as to the boundaries of any zoning districts as shown on the zoning map, the following rules shall apply:

(A) Where such district boundaries are indicated as approximately following railroad, street or highway lines, such lines shall be construed to be such boundaries.

(B) Where district boundaries are so indicated that they approximately follow property or lot lines or a legal description (metes and bounds), such lines shall be construed to be said boundaries.

(C) Where district boundaries are so indicated that they follow the center line or are approximately parallel to the center line of streets, highways or railways, or the rights-of-way of same, such district boundaries shall be construed as following or as being parallel thereto and at such distance therefrom as indicated on the zoning map.

(D) Where district boundaries are so indicated as approximately following the center line of streams, rivers, canals, lakes or other bodies of water, the boundaries shall be construed as following such center lines.

(E) Where a district boundary line divides a lot or tract in single ownership, the zoning district requirements for the most restricted portion of such lot or tract shall apply to the whole thereof.

(F) In the absence of specified distances on the zoning map, dimensions of distances shall be determined by scaling the distance on the zoning map.

(G) When a street or property layout, as built on the ground, is at variance with that shown on the official zoning map, the Board of Adjustment shall interpret the district boundaries of this chapter.

(Ord. passed 11-2-15)

APPLICATION OF ZONING REGULATIONS**§ 155.035 BONA FIDE FARM EXEMPTION.**

The provisions of this chapter, adopted under G.S. Chapter 160A, Article 19, Part 3, do not affect bona fide farms as defined in this chapter. However, any use of farm property for non-farm purposes is subject to these regulations.

(Ord. passed 11-2-15)

§ 155.036 ZONING AFFECTS EVERY BUILDING AND USE.

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located.

(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.037 REDUCTION OF LOT AND YARD AREAS PROHIBITED.

No yard or lot existing at the time of passage of this chapter shall be reduced in size or area below the minimum requirements set forth herein, except for street widening. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.038 RELATIONSHIP OF BUILDING TO LOT.

Every building hereafter erected, moved or structurally altered shall be located on a lot, and in no case shall there be more than one principal building and its customary accessory buildings on the lot, except in the case of a specially designed complex of institutional, residential, commercial or industrial buildings in an appropriate zoning district.

(Ord. passed 11-2-15)

§ 155.039 REQUIRED OPEN SPACE NOT TO BE USED FOR OTHER BUILDINGS OR USES.

No part of any yard, other open space or off-street parking or loading space required for any building, structure or other use shall be considered to be a part of a required yard, open space, off-street parking or loading space for any other buildings, structures or use except as provided in §§ 155.135 through 155.143.

(Ord. passed 11-2-15)

§ 155.040 ACCESS TO PUBLIC STREET.

No building shall be erected on any lot which does not abut at least 25 feet on a publicly dedicated or maintained street.

(Ord. passed 11-2-15)

§ 155.041 NEW USES OF CONSTRUCTION.

After the effective date of this chapter, all new construction and the moving, altering and enlarging of existing structures shall conform to the use, area, yard and height requirements for the district in which it is or is to be located.

(Ord. passed 11-2-15)

§ 155.042 CONFORMING USES.

After the effective date of this chapter, existing structures or uses of land or structures which conform to the regulations of the district in which they are located may be continued, provided that any structural alteration or change in use shall conform with the regulations herein specified for the district in which it is located.

(Ord. passed 11-2-15)

§ 155.043 ACCOMMODATION OF NONCONFORMING LOT SIZE.

Where the owner of a plot of land consisting of one or more adjacent lots at the time of the enactment of this chapter did not at that time own sufficient contiguous land to enable him or her to conform to the minimum lot size requirements of this chapter, such plot of land may be used as a building site. The yard and other space requirements of the district in which the piece of land is located may be reduced, by the Board of Adjustment, by the smallest amount that will permit a house of minimum acceptable size to be built upon the lot.

(Ord. passed 11-2-15)

§ 155.044 APPLICATION OF SPECIAL ZONING PROVISIONS REGARDING OUTDOOR STORAGE FACILITIES TO EXISTING OUTDOOR STORAGE FACILITIES.

(A) If within 60 days after the effective date of these amendments to the town pertaining to outdoor storage (hereinafter “amendments”), any person, firm, corporation or other legal entity who has not filed an application at the town Planning Department to operate and maintain a permitted facility used for outdoor storage in the town shall be judged as being in violation of this code.

(B) Existing facilities, actively operating as an enterprise, shall have three years from the effective date of these amendments to comply with these provisions providing that an application has been filed as described above and that a substantial and continuous effort is made to bring the property into compliance by maintaining the following schedule. All materials being stored shall be in compliance with all buffer requirements within six months of the date of adoption of these amendments. All materials being stored and screened by a planted buffer shall be in compliance with the screening requirements of these amendments by establishing the required planted buffer within 12 months of the date of adoption of said amendments. All materials being stored and screened by a fence shall be in compliance with the fencing requirements of these amendments within 18 months of the date of adoption of said amendments. All materials being stored shall be in compliance of all other requirements of these amendments within 36 months of the date of adoption of said amendments. The Code Enforcement Officer may grant an extension to the grace period provided that constant and substantial progress has been made toward gaining compliance and that mitigating circumstances exist that have prevented the owner/operator from complying with the terms and conditions of these amendments. Said extension periods shall be no longer than six months in length.

(Ord. passed 11-2-15)

DISTRICT REGULATIONS

§ 155.055 R-18 LOW DENSITY RESIDENTIAL DISTRICT.

This district accommodates agricultural and low density single-family residential land uses without access to municipal water and sewer services. The regulations of this district are intended to maintain the viability of agricultural uses. Because municipal sewer service is not available in these areas, all single-family dwellings (including permitted Class A and B manufactured homes) require a minimum lot size of 18,000 square feet to insure sufficiently low densities to maintain a healthy environment and to comply with Alamance County Health Department Regulations.

(Ord. passed 11-2-15)

§ 155.056 R-12 MEDIUM DENSITY RESIDENTIAL DISTRICT.

This district accommodates single-family dwellings with access to municipal water and sewer services. The regulations of this district are intended to promote a quiet and peaceful residential character within medium density neighborhoods. A minimum lot size of 12,000 square feet is required for single-family dwellings (including permitted Class A manufactured homes on individual lots) within this district. This district also accommodates planned unit developments as a special use.

(Ord. passed 11-2-15)

§ 155.057 R-7 HIGH DENSITY RESIDENTIAL DISTRICT.

This district accommodates single-family and two-family (duplex) dwellings in relatively high density neighborhoods within the town's water and sewer service area. The district regulations require a minimum lot size of 7,000 square feet for single-family dwellings (including Class A manufactured homes) and 11,000 square feet for two-family (duplex) dwellings.
(Ord. passed 11-2-15)

§ 155.058 R-G GENERAL RESIDENTIAL.

This district accommodates a mixture of single-family and two-family (duplex) dwellings, and multi-family developments with access to municipal water and sewer services. The district regulations provide opportunities for mixed residential development in relatively high density neighborhoods. A minimum lot size of 7,000 square feet is required for single-family dwellings (including permitted Class A manufactured homes), 11,000 square feet for duplexes, 15,000 square feet for triplexes and 17,000 square feet for quadraplexes, with an additional 1,500 square feet required for each dwelling unit beyond four. This district also accommodates manufactured home parks and planned unit developments as special uses.
(Ord. passed 11-2-15)

§ 155.059 I&C INSTITUTIONAL AND COMMUNITY USE DISTRICT.

This district accommodates institutional and community uses and generally assumes public (for example schools and parks) or private/non-profit (for example churches) ownership and operation.
(Ord. passed 11-2-15)

§ 155.060 B-1 CENTRAL BUSINESS DISTRICT.

This district accommodates centrally located and relatively concentrated groupings of commercial retail and service uses. District regulations provide for the reduction (or waiver) of requirements for off-street parking and loading and front and side yard setbacks to encourage a concentration of businesses.
(Ord. passed 11-2-15)

§ 155.060.1 B-1.2 CENTRAL BUSINESS DISTRICT II.

This district accommodates centrally located and relatively large tracts of land occupied predominately by historic mill structures rehabilitated or proposed for rehabilitation for mixed use development consisting of residential, commercial retail, office, institutional, and service uses. District regulations provide for the waiver of the following requirements: required off-street parking, setbacks,

landscaping buffer requirements, and any density requirements to encourage both a mix of uses and a concentration of uses within a rehabilitated historic mill property.
(Ord. passed 6-18-18)

§ 155.061 B-2 GENERAL BUSINESS DISTRICT.

This district accommodates commercial retail and service uses and business and professional office uses along major thoroughfares and collector roads. This district also accommodates unified business developments (for example shopping centers and office parks) and planned unit developments as special uses.
(Ord. passed 11-2-15)

§ 155.062 B-3 NEIGHBORHOOD BUSINESS DISTRICT.

This district accommodates low intensity commercial and office uses which serve the immediate needs of adjacent residential areas. District regulations provide for commercial and office uses which generate low levels of traffic, acceptable levels of noise, air or visual pollution and are compatible with adjacent residential uses.
(Ord. passed 11-2-15)

§ 155.063 I-1 LIGHT INDUSTRIAL DISTRICT.

This district accommodates light industrial and warehousing uses operated in a relatively clean and quiet manner.
(Ord. passed 11-2-15)

§ 155.064 I-2 HEAVY INDUSTRIAL DISTRICT.

This district accommodates most manufacturing and processing industries, especially those uses with special needs for access to major transportation facilities, utilities and other public infrastructure or services. Section 155.064, industrial district performance standards, provides additional regulations to insure compatibility between permitted uses in both industrial districts and adjacent residential and business areas.
(Ord. passed 11-2-15)

§ 155.065 WSII-CA(O) WATERSHED II - CRITICAL AREA OVERLAY DISTRICT.

This district is established as an overlay district, intended to impose an additional layer of regulations onto those of the underlying zoning districts within the critical portions of the town's water

supply watershed. These additional regulations are not intended to unnecessarily limit development options, but rather to establish a more stringent set of development standards to reduce the risk of water quality degradation from pollution and hereby protect the town's drinking water supply. The regulations of this district are designed to maintain a predominantly undeveloped land intensity pattern. Residential uses are allowed at a maximum density of one dwelling unit per two acres. Nonresidential uses are allowed with a maximum 6% built-upon area. See §§ 155.225 through 155.250 for WSII-CA(O) overlay district regulations.

(Ord. passed 11-2-15)

§ 155.066 CR CONDITIONAL RESIDENTIAL DISTRICT.

(A) *Purpose.* The Conditional Residential District is hereby established in order to accommodate the development of planned residential communities that may incorporate all the uses indicated in the CR column of the Table of Permitted Uses, § 155.070 and subject to such conditions as may be referred to in the notes and/or special requirements column of said table. This conditional zoning district is intended to serve development that is “ripe” and not of a speculative nature. The Conditional Residential District is intended to allow for the establishment of certain uses, which, because of their nature or scale, have particular impacts on both the immediate area and the community as a whole. These uses are not otherwise addressed in the permitted uses of the general districts, and conditional uses allow for flexibility in development while protecting existing developed areas. The process for approval of a Conditional Zoning District is explained in § 155.282 of the Town of Haw River Zoning Chapter.

(B) *Development standards.* All specific development standards for the R-12 Medium Density Residential Zoning District found within the Town of Haw River Zoning Chapter, Town of Haw River Subdivision Chapter and any other accepted/adopted policies of the Town of Haw River must be met. However, the petitioner requesting a rezoning to a Conditional Residential Zoning District may place additional requirement and standards onto themselves and their property or ask that certain standards identified in the request for rezoning be decreased. It shall be the Town Council’s final decision to grant approval or denial of the rezoning in light of the increased or decreased development standards presented to them. If no specific request is made by the petitioner to change the development standards or if the petition to rezone is silent on this point; it shall be understood that the R-12 Medium Density Residential Zoning District Standards shall apply.

(Ord. passed 11-2-15)

§ 155.067 CB CONDITIONAL BUSINESS DISTRICT.

(A) *Purpose.* The Conditional Business District is hereby established in order to accommodate the development of planned commercial developments that may incorporate all the uses indicated in the CB column of the Table of Permitted Uses, § 155.070 and subject to such conditions as may be referred to in the notes and/or special requirements column of said table. This conditional zoning district is intended to serve development that is “ripe” and not of a speculative nature. The Conditional Business District is intended to allow for the establishment of certain uses, which, because of their nature or scale, have

particular impacts on both the immediate area and the community as a whole. These uses are not otherwise addressed in the permitted uses of the general districts, and conditional uses allow for flexibility in development while protecting existing developed areas. The process for approval of a Conditional Zoning District is explained in § 155.282 of the Town of Haw River Zoning Chapter.

(B) *Development standards.* All specific development standards for a B-2 Zoning District found with the Town of Haw River Zoning Chapter, Town of Haw River Subdivision Chapter and any other accepted/adopted policies of the Town of Haw River must be met. However, the petitioner requesting a rezoning to a Conditional Business Zoning District may place additional requirements and standards onto themselves and their property or ask that certain standards identified in the request for rezoning be decreased. It shall be the Town Council's final decision to grant approval or denial of the rezoning in light of the increased or decreased development standards presented to them. If no specific request is made by the petitioner to change the development standards or if the petition to rezone is silent on this point; it shall be understood that the B-2 Zoning District Standards shall apply.

(Ord. passed 11-2-15)

§ 155.068 CI CONDITIONAL INDUSTRIAL DISTRICT.

(A) *Purpose.* The Conditional Industrial District is hereby established in order to accommodate the development of planned industrial developments that may incorporate all the uses indicated in the CI column of the Table of Permitted Uses, § 155.070 and subject to such conditions as may be referred to in the notes and/or special requirements column of said table. This conditional zoning district is intended to serve development that is "ripe" and not of a speculative nature. The Conditional Business District is intended to allow for the establishment of certain uses, which, because of their nature or scale, have particular impacts on both the immediate area and the community as a whole. These uses are not otherwise addressed in the permitted uses of the general districts, and conditional uses allow for flexibility in development while protecting existing developed areas. The process for approval of a Conditional Zoning District is explained in § 155.282 of the Town of Haw River Zoning Chapter.

(B) *Development standards.* All specific development standards for an I-2 Zoning District found with the Town of Haw River Zoning Chapter, Town of Haw River Subdivision Chapter and any other accepted/adopted policies of the Town of Haw River must be met. However, the petitioner requesting a rezoning to a Conditional Industrial Zoning District may place additional requirements and standards onto themselves and their property or ask that certain standards identified in the request for rezoning be decreased. It shall be the Town Council's final decision to grant approval or denial of the rezoning in light of the increased or decreased development standards presented to them. If no specific request is made by the petitioner to change the development standards or if the petition to rezone is silent on this point; it shall be understood that the I-2 Zoning District Standards shall apply.

(Ord. passed 11-2-15)

§ 155.069 CMX CONDITIONAL MIXED USE DISTRICT.

(A) *Purpose.* The Conditional Mixed Use District is hereby established in order to accommodate the development of planned communities that may incorporate a full range of housing types and compatible nonresidential uses that provide goods, services, and employment. In order to encourage high quality design and innovative arrangement of buildings and open space uses throughout the project, these districts provide substantial flexibility from the conventional use and dimensional requirements of the general districts. The Conditional Mixed Use District is intended to allow for the establishment of certain uses, which, because of their nature or scale, have particular impacts on both the immediate area and the community as a whole. These uses are not otherwise addressed in the permitted uses of the general districts, and conditional uses allow for flexibility in development while protecting existing developed areas. The process for approval of a Conditional Zoning District is explained in § 155.282 of the Town of Haw River Zoning Chapter.

(B) *Criteria.* The developmental and locational criteria for the districts are as follows:

(1) *CMX-Residential mixed uses.* This district permits residential mixed use development (dwellings and permitted accessory uses and structures) on tracts which are ten acres or larger and residential mixed use and nonresidential use development on tracts that are 30 acres or larger. This district is permitted within the community along major thoroughfares, minor thoroughfares or collector streets having adequate access.

(2) *Uses permitted by right.* The following uses shall be permitted by right in the CMX District, provided that they meet all requirements of this part and all other requirements of these regulations:

(a) The CMX District shall allow for any use as indicated in the CMX-R column of the Table of Permitted Use, § 155.070 and subject to such conditions as may be referred to in the notes and/or special requirements column of said table.

(b) Development standards for CMX District. All uses and structures in the CMX District shall meet the development standards established in this section, and the following:

1. The minimum total project area for development in a mixed use district is: CMX projects with ten acres or less shall be developed exclusively for residential purposes. CMX projects with more than ten acres may have a mixture of residential and commercial uses.

2. Residential development within the CMX District shall meet the minimum lot area, lot width, and yard requirements established for the R-7 District for single-family development and the R-G District for attached and multi-family development.

3. Nonresidential development within the CMX District shall meet the minimum lot area, lot width, and yard requirements established for the B-2 District. In no event shall nonresidential development in a CMX District exceed a floor-area-ratio of 0.75 (for each one square foot of land .75 square feet of building may be built.)

(3) *Density limitations.* Residential development in the CMX District shall not exceed the maximum residential density of eight units per acre. The calculation of maximum density shall be based on the total project area minus any portion of the total project area to be devoted to nonresidential uses. For the purpose of this calculation, public rights-of-way shall be deemed to be a residential use.

(4) *Common open space; density bonus.*

(a) At least 10% of the total project area shall be set aside as common open space.

(b) A density bonus over and above the density otherwise allowed in the CMX District may be approved by the Town Council provided that the petitioner increases the percentage of the total project area to be devoted to common open space. This bonus may be granted only if specifically requested by the petitioner. Any such bonus shall consist of a 1% increase in the allowable density for every 1% of land area devoted to common open space in addition to the 10% required under division (B)(4)(a) above, but in no event shall the bonus exceed 35% of the allowable density set out in the density table.

(c) All common open space shall be set aside and improved no later than the date on which certificates of occupancy are issued for the first 75% of the total number of dwelling units to be constructed within the project area.

(d) No more than 50% of all required common open space shall be covered by water.

(e) Any structures located in any common open space shall be accessory to recreational use of the space and shall cover no more than 5% of all common open space.

(f) The required common open space shall be planned and improved so that it is accessible and usable by persons living in the project area. However, common open space containing natural features worthy of preservation may be left unimproved.

(g) All of the required common open space shall be either conveyed to the Town of Haw River, if the town agrees to accept ownership of and to maintain the space, or conveyed to one or more homeowner associations created for the project area, or with respect to outdoor recreation facilities, to the owner or operator thereof.

(h) Any conveyance to a homeowners association shall be subject to restrictive covenants and easements reviewed by the Town Manager and recorded and filed at the time the subdivision plat for the project area is recorded. The covenants and easements shall provide for the establishment of a homeowner's association before any homes are sold, where membership is mandatory for each home buyer and any successive buyer, the association is responsible for liability insurance and local taxes on common open space and recreational facilities owned by it, any fees levied by the association that remain unpaid will become a lien on the individual property, and the association shall be able to adjust the assessment to meet changing needs. The covenants and easements shall also prohibit future development of any common open space for other than open space or recreation purposes and shall provide for continued maintenance of any common open space and recreational facilities.

(5) *Innovative development standards.* After the property has been reclassified to the CMX District by the Town Council, the Town Council, as part of the approval process for development of property located in the CMX District, may modify the following standards established in these regulations and Subdivision Chapter for the Town of Haw River in order to accommodate a development project proposed for the MX district:

- (a) Street right-of-way;
- (b) Street type and construction standards (including width) for public or private streets;
- (c) Sidewalks, curbs, and gutters;
- (d) Minimum lot size;
- (e) Public street frontage;
- (f) Setbacks and yards;
- (g) Off-street parking; and
- (h) Lot width.

(6) *Development standards of general applicability.* Except as otherwise provided in this part, all uses and structures permitted in the CMX District shall meet the applicable development standards set out in these regulations. Signs shall be permitted in the CMX District in accordance with the approved sign plan. In no instance may more signage be permitted than would be allowed in a Unified Business Development for any commercial signage. Signage in residential areas must meet the sign ordinance of the Town of Haw River for residential development.
(Ord. passed 11-2-15)

§ 155.070 TABLE OF PERMITTED USES.

Districts in which uses are permitted as a use by right are indicated by “X”. A blank indicates districts in which uses are prohibited. Districts in which uses are permitted as a permitted special use, upon Town Council approval are indicated by “S”. See §§ 155.080 through 155.086 for required conditions for special use permits. Additional uses may be added to this chapter by amendment.

[Table begins on next page]

	Single-Family Residence	Single-Family Residence	Single and Two-Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Central Business II	Conditional Business	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Residential)	R18	R12	R7	RM-F	RG	CR	I-C	B3	B2	B1	B-1.2	CB	CM X	II	I2	CI	
Accessory buildings and uses	x	x	x	x	x	C							C				(a)
Adult care homes	s		s	x	x	C	s	s	x			C	C	x	s		
Boarding houses, rooming houses				x	x	C	x	x					C				
Condominiums					x	C					x		C				(b)
Dwellings: single-family detached	x	x	x	x	x	C							C				
Dwellings: two-family (duplexes)			x	x	x	C							C				
Dwellings: multi-family				x	x	C					x		C				(c)
Dwellings located in the second or higher story of a commercial structure								x	x	x	x	C	C				(d)
Class A manufactured home (mobile home) One dwelling unit per lot	x	x	x	x	x												
Class B manufactured home (mobile home) One dwelling unit per lot	x			x													
Class C manufactured home (in manufactured home parks only)					x												
Class C manufactured home (mobile home) park					s												
Residential quarters for operators, caretakers, watchmen, etc., in or adjacent to buildings designed primarily for nonresidential use	x	x	x	C	C	x	x	C									
Group homes	s	s	s	s	s	C	s	s	s	s		C	C	s	s		

	Single-Family Residence	Single-Family Residence	Single and Two-Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Central Business II	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	B-1.2	CB	CM X	I-1	I-2	CI	
Accessory buildings and uses							x	x	x	x	x	C	C	x	x	C	(a)
Adult establishment (inc. bookstores)															s		
Airports															s	C	
Manufacturing, alcohol															x	C	
Animal hospitals, veterinary clinics									x		x	C	C	x	x	C	
Shops, specialty (antiques, gifts, tile, florists, etc.) located in structures originally designed for residential uses							s	x	x	x	x	C	C	x			
Manufacturing, asphalt mixing plants															x	C	(f)
Manufacturing, assembling, compounding, or treatment of articles or merchandise from previously prepared materials														x	C	C	(g)(h)
Auditoriums, gymnasiums, stadiums and similar facilities where admissions are charged or organized athletic events are held				s	s	s	s	s	s	C	s	C	s	C			
Automobile parts & accessories sales								x	x	x		C	C	x		C	
Amusement establishments, indoor and public (billiard rooms, dance halls, bowling alleys, skating rinks, etc.)									x	x	x	C	C	x			

	Single-Family Residence	Single-Family Residence	Single and Two-Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Central Business II	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	B-1.2	CB	CM X	I-1	I-2	CI	
Automobile assembly, painting, upholstery, rebuilding, reconditioning, body & fender works														x	x	C	
Automobile body and fender repair, conducted within a completely enclosed building									x	x		C	C	x	x	C	
Automobile repair shops, not including body or fender repair									x	x		C	C	x	x	C	
Automobile sales: new and used									x	x		C	C	x	x	C	
Baked goods production plant														x	x	C	
Bakeries selling retail products produced on premises								x	x	x	x	C	C	x	x	C	
Banks, savings and loans and similar financial institutions							x	x	x	x	x	C	C	x			
Barber shops, beauty parlors								x	x	x	x	C	C	x			
Bottling plant, dairy or dairy products processing plant									x					x	x	C	
Building supplies and lumber sales, not including storage sheds or storage yards									x	x		C	C	x	x	C	

	Single-Family Residence	Single-Family Residence	Single and Two-Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Central Business II	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	B-1.2	CB	CM X	I-1	I-2	CI	
Building supplies or lumber sales, including storage sheds or storage yards														x	x	C	
Cabinet woodworking and upholstery shops									x					x	x	C	
Campgrounds, commercial, not including spaces for camping vehicles									x			C	C	x	x	C	
Camping, recreational vehicle parks									x			C	C	x	x	C	
Car wash (self-service and drive-through)								s	x	x		C	C	x	x	C	
Cemeteries or mausoleums					s				s			C	C	s	s	C	
Churches and convents	x	x	x	x	x	C	x	x	x	x	x	C	C	x	x	C	
Cleaning establishments: rags, bags and carpets														x	x	C	
Clubs, golf, swimming and tennis clubs (operated by nonprofit organizations)	s	s	s	s		C			s			C	C	s	s	C	
Clubs, night clubs and dance halls									x	x		C	C	x	x	C	
Cold storage plant														x	x	C	
Community centers, not including gymnasiums or stadiums	s	s	s	s	s	C	s	s	s	s	s	C	C	s	s	C	
Contractors' offices (not including storage sheds or storage yards)							x	x	x	x		C	C	x	x	C	
Convenience store								x	x	x	x	x	C				

	Single-Family Residence	Single-Family Residence	Single and Two-Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Central Business II	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	B-1.2	CB	CM X	I-1	I-2	CI	
Day care centers with an outdoor play area of at least 200 square feet per child or client			C	x	x	x	C	C	x	x	x	x	x				
Day care centers operated as home occupations, with an outdoor play area of at least 200 square feet per child or client				x	x	x	x	x	C	x	x	x	C	x			
Dry cleaning and pressing plants									x					x	x	C	
Dry cleaning pickup establishments								x	x	x	x	C	C	x	x	C	
Electronic, internet, or sweepstakes gaming									s					s			
Electronic plants								x	x	x		C	C	x	x	C	
Explosives storage, long-term or temporary														x	x	C	(j)
Fairs, circuses, carnivals, sideshows												C	C	s	s	C	
Family (Group) care home A	x	x	x	C	x	C	C										
Family (Group) care home	x	C			x	C	C										
Farms	x	x	x	x	x		x	x	x						x	x	
Farm machinery sales, service and repairs									x	x		C	C	x	x	C	
Feed & seed store									x			C		x		C	
Fire & police stations	C				x	C	x		x			C	C	x	x	C	

	Single-Family Residence	Single-Family Residence	Single and Two- Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Central Business II	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	B-1.2	CB	CM X	I-1	I-2	CI	
Flea market							s	s	s			s	s	s			
Florist shop								x	x	x	x	x	C				
Food and beverage storage and distribution									x	x		C	C	x	x	C	
Food processing in wholesale quantities excluding slaughtering														x	x	C	
Funeral homes and mortuaries							x	x	x	x		C	C	x			
Golf courses, except par three, miniature courses and lighted driving ranges	s	s	s			C							C	s	s	C	
Golf courses: miniature								x	x			C	C	x		C	
Golf courses: par three					x									x	x	C	
Golf driving ranges: lighted									x			C	C	x		C	
Government offices							x		x		x	C		x			
Greenhouses: commercial, including greenhouses on the same site as florists shops									x			C	C	x	x	C	
Grocery store								C	x	x	x	x	C				
Hatcheries														x	x	C	
Home occupations	x	x	x	x	x	C	x	x	x	x	x	C	C	x	x	C	
Hospitals, except animal hospitals and hospitals operated for the treatment of chronic alcoholics, the insane, infectious diseases or narcotic patients				s	s	C	s	s	x	C		C	s				

Haw River - Land Usage

	Single-Family Residence	Single-Family Residence	Single and Two- Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Central Business II	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	B-1.2	CB	CM X	I-1	I-2	CI	
Hospitals, for the treatment of chronic alcoholics, the insane, infectious diseases or narcotic patients	s	s	s	s	s		s	s	s					s	s	C	
Hotels, motels									x	x		C	C	x	x	C	
Industrial equipment, sales, repair and servicing														x	x	C	
Industrial research and educational facilities									x	x		C	C	x	x	C	
Jail, prison							s		s					s	s	C	
Junk yards, scrap metal processors, automobile wreckers														s	s	C	
Kennels													x		x	x	(n)
Laboratories for research and testing, except testing of explosives or of any other device or product producing noise, dust, odor or smoke									x					x	x		
Landfills, sanitary and demolition	s				s									s	s	C	
Landscape, horticulture service									x	C		C	C	x	x	C	
Laundries: except self-service									x	x		C	C	x	x	C	
Laundries: self-service								x	x	x	x	C	C	x	x	C	
Libraries, art galleries, museums							x	x	x	x	x	C	C	x	x	C	
Locksmith, gunsmith									x	x	x	C	C	x	x	C	

	Single-Family Residence	Single-Family Residence	Single and Two- Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Central Business II	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	B-1.2	CB	CM X	I-1	I-2	CI	
Lodges, civic, social and fraternal organizations, not including lodges or other buildings rented or used for parties at night						s	C	s	x	x		x	C	C	x	C	
Lodges or other buildings rented or used for parties at night	s								x	x		C	C	x		C	
Lumber yards, building materials storage & sales, inc. fenced open storage									x	C		C		x	x	C	
Machine shops														x	x	C	(q)
Manufactured & modular home sales									x	x		C	C	x	x	C	
Manufacturing, bags															x	C	
Manufacturing, brick, tile, terra cotta, etc.															x	C	
Manufacturing, cement, concrete, lime, plaster, etc.															x	C	
Manufacturing, furniture															x	C	
Manufacturing - General Business, Light & Heavy Industry: monuments, stonecutting & sales; optical and scientific instruments; signs (includes painting and maintenance)							x		x	x							
Manufacturing - heavy industry, not otherwise listed															x	C	(m)

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	Single-Family Residence	Single-Family Residence	Single and Two- Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Central Business II	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	B-1.2	CB	CM X	I-1	I-2	CI	
Manufacturing, ice (includes storage and sales)														x	x	C	
Manufacturing, insecticide and pesticide mixing plant														x	x	C	
Manufacturing, machine tools															x	C	
Manufacturing, mattresses, bedding and pillows														x	x	C	
Manufacturing, metal fabrication plant, including boiler and tank works									x					x	x	C	
Manufacturing, monuments, stonecutting, sales																	
Manufacturing, optical and scientific instruments														x	x	C	
Manufacturing, paint and enamel															x	C	
Manufacturing, paper, pulp, cardboard, etc.															x	C	
Manufacturing, pharmaceutical products														x	x	C	
Manufacturing, pottery and porcelain														x	x	C	
Manufacturing, rubber products															x	C	

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Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	B-1.2	CB	CM X	I-1	I-2	CI	
Manufacturing, signs (includes painting and maintenance)									x			C	C	x	x	C	
Manufacturing, soaps, detergents and washing compounds															x	C	
Manufacturing, tanning of leathers															x	C	
Manufacturing, textiles															x	C	
Manufacturing, tobacco products														x	x	C	
Meat processing and packing, not including any slaughter														x	x	C	
Nursing homes, convalescent homes, homes for the aged, orphanages	s		s	x	x	C	s	s	x			C	C	x	s		
Offices, government					x	x	x				x						
Offices, medical, dental and paramedical clinics							x	x	x	x	x	C	C	x	x	C	
Offices or agencies not engaged in retail sales to the general public, or the maintenance of a stock of goods, merchandise or supplies on the premises							x	x	x	x	x	C	C	x			
Parking lots; commercial									x	x	x	C	C	x	x	C	

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	Single-Family Residence	Single-Family Residence	Single and Two- Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Central Business II	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	B-1.2	CB	CM X	I-1	I-2	CI	
Parking lots: operated in conjunction with a permitted use located in another district						x	x	x	C	C		x	x	C			(s)
Parking lots: serving uses permitted in the district in which the lot is located	x	x	x	x	x	C	x	x	x	x	x	C	C	x	x	C	(r)
Parks and recreation facilities, public (not including auditoriums, gymnasiums, stadiums and similar facilities where admissions are charged or organized athletic events are held)		x	x	x	x	C	x	x	x	x	x	C	C	x	x	C	
Pawn shops								x	x	x		C	C	x	x	C	
Photographic studios, camera shops								x	x	x	x	C	C	x			
Plant nurseries: commercial				s	s				x					x	x	C	
Plumbing shops									x			C	C	x	x	C	
Plumbing, heating, air conditioning and electrical contractors									x			C	C	x	x	C	(t)
Post office								x	x	x	x	C	C	x			
Printing and binding establishments									x	x		C	C	x	x	C	
Produce markets, farmers' markets								x	x	x	x	C	C	x	x	C	(u)

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Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	B-1.2	CB	CM X	I-1	I-2	CI	
Public safety stations: ambulance, emergency services, fire, police	x				x	x	x										
Pulpwood yards, including loading facilities for temporary storage of wood for shipment														x	x	C	
Quarries: gravel, sand and clay pits															x	C	
Race tracks for automobiles, motorcycles or other motorized vehicles														s	s	C	
Radio and television stations: studios, offices and transmission towers								x	x	x		C	C	x	x	C	
Remnant shops								x	x	x		C	C	x	x	C	
Restaurants, drive-ins or drive-through									x	x		C	C	x			(i)
Restaurants, including all eating places, except drive-ins, night clubs and lodges									x	x	x	C	C	x	x	C	
Retail establishments: not otherwise listed herein						x	x	x	x	x	x	C	C	x			
Roadside stands: temporary sale of agricultural produce on the premises, by a resident	x	x	x	x		x	C	C				x	x				

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<i>Permitted Uses (Nonresidential)</i>	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	B-1.2	CB	CM X	I-1	I-2	CI	
Roofing contractor's office, plant and yards									x			C	C	x	x		
Sawmill engaged in custom sawing of timber brought to the site and removed as finished lumber														x	x	C	(w)
Sawmill and lumber processing yard with retail and storage facilities														x	x	C	
Schools (academic): elementary, secondary, public or private	s			s	s	C	x	s	x			C	C	x	x	C	
Schools (nonacademic): commercial, vocational, public or private							x	s	x	x		C	C	x	x	C	
Schools: music, art, dancing								x	x	x	x	C	C	x			
Septic tank installation and servicing agencies														x	x	C	
Service stations with no gasoline or oil pump, appliance, or concession located within 15 feet of any property line unless within a building								x	x	x		C	C	x			
Shops for radio and television repair, shoe repair, tailoring, dressmaking, repair of small items								x	x	x	x	C	C	x	x	C	
Stables: commercial, including riding academies	s													s	s	C	

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Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	B-1.2	CB	CM X	I-1	I-2	CI	
Storage, petroleum products (up to 100,000 gallons)								x	x	x				x	x	C	
Storage, petroleum products (over 100,000 gallons)															x	C	
Storage, tobacco products														x	x	C	
Storage warehouses: for rubber, foam rubber, proxylin plastics oxidizing or radioactive materials, or any other readily combustible material not otherwise listed herein														x	x	C	
Storage warehouses (no outdoor storage): for materials not otherwise listed herein														x	x	C	
Storage yard														x	x	C	(x)
Swimming pool, community, nonprofit	x	x	x	x	x	C	x	x	x	x		C	C	x	x	C	
Swimming pool, private, as an accessory use	x	x	x	x	x	C	x				x		C				(y)
Taverns and bars									x	x	x	C	C	x			
Taxi stands								x	x	x		C	C	x			
Telephone exchanges with business offices							x	x	x	x		C	C	x	x	C	
Temporary buildings and materials storage in conjunction with construction on the same lot					x	C	x	x	x	x	x	C	C	x	x	C	

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Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	B-1.2	CB	CM X	I-1	I-2	CI	
Temporary mobile office units	x	x	x	x	x	C	x	x	x	x		C	C	x	x	C	(AE), (AF), (AG), (AH)
Theaters: drive-in									s			C	C	s	s	C	
Theaters: indoor									x	x	x	C	C	x			
Tire recapping and retreading (accessory use)									x	x				x	x	C	
Tire recapping and retreading (principal use)														x	x	C	
Transportation terminals: freight														x	x	C	
Transportation terminals: passenger									x	x		C	C	x			
Truck gardening and noncommercial nurseries, as an accessory use	x	x	x	x	x	C	x	x	x	x		C	C	x	x	C	
Truck sales									x	x		C	C	x	x	C	
Truck storage and repair														x	x	C	
Unified business development									s			C	C	s			(aa)
Utilities, public: distribution lines, transformer stations, transmission lines, telephone exchanges (without business offices, water tanks, fire towers)				s	s	C	s	s	s	s		C	C	s	s	C	
Utilities, public: warehouses, storage yards and repair areas														x	x	C	

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<i>Permitted Uses (Nonresidential)</i>	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	B-1.2	CB	CM X	I-1	I-2	CI	
Veterinarian's office (no outdoor kennels or pens)									x			C	C	x	x	C	
Waste collection, bailing or recycling: paper, glass, plastics, rags, etc.														x	x	C	
Welding shop														x	x	C	
Wholesale distributors, not otherwise listed herein									x			C	C	x	x	C	

(Ord. passed 11-2-15; Am. Ord. passed 7-10-17; Am. Ord. passed 6-18-18; Am. Ord. passed 12-3-18; Am. Ord. passed 1-7-19)

§ 155.071 NOTES TO TABLE OF PERMITTED USES.

(A) Permitted in accordance with provisions of §§ 155.190 through 155.192, accessory building and use requirements.

(B) Condominiums are defined as a grouping of individually owned units in multi-family structures in combination with common areas and facilities shared by all the owners. Condominiums are permitted in the same zoning districts as multi-family dwellings and are subject to the same regulations and requirements as multi-family developments, including area, yard, height and screening requirements (see §§ 155.120 through 155.124) and off-street parking and loading requirements (see §§ 155.135 through 155.143). In addition, condominiums shall conform to applicable requirements of the town ordinance to regulate the platting and recording of subdivision of land. Condominium ownership may be created by the owner or co-owners of a structure by an express declaration of intent to submit such property to the provisions of G.S. Chapter 47A, "Unit Ownership of North Carolina," in strict compliance with the Unit Ownership Act, and upon approval of the Haw River Town Council, and recordation of such approval in the office of the Alamance County Register of Deeds.

(C) Issuance of a zoning permit for all multi-family uses (including condominiums) is contingent upon the submission of a site plan and determination by the Zoning Enforcement Officer that the proposed use is in compliance with the following minimum requirements:

(1) Adequate off-street parking and loading areas are provided, in compliance with §§ 155.135 through 155.143.

(2) Area, yard, height and screening requirements are met as provided in §§ 155.120 through 155.124.

(3) Adequate landscaping and plantings are provided.

(4) Adequate space between buildings is provided to assure access for firefighting and emergency equipment and personnel.

(5) All signs are in compliance with §§ 155.155 through 155.166.

(D) Provided adequate light and air and bathroom arrangements are provided and maintained.

(E) May not be located within required front, side or rear yard setbacks.

(F) Provided such plants are equipped with both a primary and a fugitive dust collection system; and provided that such systems shall be designed to discharge dust particles into a secondary collector system equipped with either water sprinklers or a comparable dust retard device; and provided further that all tanks used for the storage of asphalt shall be equipped with automatic controls and temperature gauges intending to eliminate dangers from explosion due to overheating.

(G) Including bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones, shell, textiles, tobacco, wood (except planing mills), yarns and paint (provided no boiling process is employed).

(H) When a manufacturing or industrial use is indicated elsewhere in this table, that entry shall govern.

(I) An eight-foot high, opaque fence is required along the perimeter of the site where adjacent to residential zoning districts or residential uses.

(J) In accordance with the provisions of the National Fire Codes, Volume 11, Chapter 3, Storage of Explosives, and provided that all magazines are properly secured when not in use.

(K) Accessory uses and structures including open storage are permitted only in business and industrial districts where indicated, provided the storage yard is enclosed by a solid, opaque fence at least eight feet high or a natural vegetative buffer at least ten feet wide and 12 feet high, which screens from

view all stored materials. However, the storage of uncured hides, explosives or oil and gasoline products is prohibited within such general use storage yards.

(L) Gasoline and oil pumps, appliances and concessions must be located at least 20 feet from all property lines, unless they are located within a building. All service, storage and similar activities must be conducted on the property on which the service station is located. Repair, service and storage must be within the building, and there can be no outside storage on the premises within the B-1 and B-3 zoning districts.

(M) Provided the Board of Adjustment finds such industry is similar to other industries permitted in the I-2 Industrial District and that the operation of such industry will not violate any provision of this chapter.

(N) Provided all pens and runs are at least 50 feet from any property line.

(O) May not be located any closer than one-half mile to another family care home.

(P) Home occupations are permitted when conforming to the following requirements:

(1) A home occupation shall not increase the traffic, noise, electrical interference, glare, dust, smoke or odor which is normally found in its vicinity when its use is not in operation.

(2) Home occupations shall be conducted entirely inside the building with no outside storage and shall be clearly incidental and secondary to the permitted use of the building.

(3) The floor area used for home occupations shall not exceed 25% of the total floor area of a dwelling unit except where lodging is provided for a resident guest; and one home occupation shall not operate in more than one dwelling unit or residential lot.

(4) No exterior evidence of the presence of a home occupation shall be permitted nor shall the presence of the incidental use change the exterior character of the dwelling unit.

(5) There shall be no sales rooms or display windows, nor shall any material or supplies be stored in the open.

(6) No sign announcing the presence of a home occupation shall be permitted other than an occupancy sign which complies with §§ 155.155 through 155.166.

(7) Not more than one employee who is not a member of the immediate family residing in the same dwelling unit may be employed in the operation of a home occupation.

(Q) No punch presses (over 20 tons rated capacity), drop hammers or automatic screw machines shall be permitted in the I-1 Zoning District.

(R) In any residential district(s), a special use permit shall be required whenever it is proposed that the total parking area for any nonresidential establishment exceed one-half acre in size.

(S) Satellite dishes, television and short wave antennas in residential districts shall be subject to the following restrictions:

(1) No short-wave, television antenna or satellite dishes shall be constructed, built or maintained within the right-of-way of any street, highway or sidewalk in any residential district.

(2) No short-wave, television antenna or satellite dishes exceeding a height of four feet shall be constructed, built or maintained in any residential district within four feet of the edge of the pavement or shoulder of any street, highway or sidewalk.

(T) Provided there is no outdoor storage of wares or equipment other than vehicles.

(U) Produce markets or stands, see "roadside stands."

(V) Provided no part of such stand is located within any street right-of-way line.

(W) No lumber shall be stored longer than 14 days; provisions shall be made for removal of sawdust before accumulations become excessive.

(X) Opaque screen required when located adjacent to any residential zoning districts.

(Y) Manufactured homes used as temporary dwelling are permitted as special uses for up to 12 months upon issuance of a permit from the Zoning Enforcement Officer. The permit may be extended for up to 12 additional months (see §§ 155.080 through 155.086, special uses).

(Z) Such temporary uses are to be terminated at the completion of construction.

(AA) Telecommunication tower heights cannot be any longer than the distance from the nearest residential, commercial or any other structure not related to the tower's operation plus 50 ft.

(AB) In R-18 and R-12 districts, the telecommunications tower must be designed to be inconspicuous or in a manner that does not draw attention.

(AC) In I-1 districts adjacent to lots zoned or used for residential purposes, the setback requirements for self-storage units (including mini-warehouses) shall not be increased and shall remain the standard minimums as found in §§ 155.120 through 155.124 (area, yard, height and screening requirements).

(AD) "Flea markets" are permitted as a special use, as specified in the table, provided the following conditions are met:

(1) A minimum lot area of one acre is required;

(2) Flea market uses will not be allowed as an accessory use;

(3) Adequate and safe permanent public restrooms and/or toilet facilities are required. No portable restroom facilities will be allowed;

(4) If all or a portion of the flea market use will take place outdoors, the following regulations apply:

(a) Sales or display areas shall not encroach upon any required setback, block sidewalks or parking areas, or impede vehicular or pedestrian traffic;

(b) All tables, stands, and/or other display equipment and all vehicles shall be removed from the parcel any time that the flea market is not open to the public;

(c) All sales items shall be stored indoors when the flea market is not open for business or removed from the site at the close of business each day; and

(d) All screening and fencing requirements for the zone within which the proposed flea market will be set shall apply.

Additional Required Information for Application:

- If all or a portion of the flea market use will take place outdoors, in addition to the general requirements, the site plan must also include the location, dimensions, and number of individual booths or sales areas;

- A lighting plan; and

- Proposed hours and days of operation.

(AE) Temporary mobile office units are permissible on industrial sites while under construction only.

(AF) Temporary mobile office units are permissible on residential major subdivision sites only while under construction (planned subdivision in excess of ten houses constitutes a major subdivision).

(AG) Temporary mobile office units are permissible on business sites while under construction only.

(AH) Temporary mobile office units are never permissible in any zoning if they are being used in a permanent fashion and not just as a temporary space during the completion of permanent construction. (Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.072 OUTDOOR STORAGE ON RESIDENTIAL PROPERTY.

No more than 500 square feet of junk as that term is defined in this Code, which said square footage may include up to two junked or inoperable vehicles, may be kept on property zoned for residential use; provided, however, that the materials being stored must be screened from public view or placed under a shelter.

(Ord. passed 11-2-15)

SPECIAL USES**§ 155.080 INTENT AND PURPOSE OF SPECIAL USE PERMIT PROCEDURES.**

(A) Special use permitting procedures add flexibility to the zoning ordinance. Subject to high standards of planning and design, certain property uses are allowed in designated districts where these uses would not otherwise be acceptable. Through special use permit procedures, controls or conditions are placed on property uses which would otherwise be undesirable in certain districts to minimize negative effects on surrounding properties.

(B) The uses for which special use permits are required are indicated by an “s” in the Table of Permitted Uses, § 155.070. Procedures for issuance of special use permits and the minimum conditions required for obtaining a permit are presented below. Special uses may be permitted in designated zoning districts only after a special use permit is approved by the Board of Adjustment and issued by the town’s Zoning Enforcement Officer.

(Ord. passed 11-2-15)

§ 155.081 APPLICATION SUBMISSIONS.

Applicants for special use permits are advised to confer with the Zoning Enforcement Officer prior to formal application for a special use permit to determine what information must accompany the formal application. Applicants for special use permits for the operation of outdoor storage facilities must first submit their application to the Zoning Enforcement Officer. Any or all of the following information may be required, depending on the character and size of the proposed use:

(A) Five copies of the proposed site plan at a minimum scale of 1" = 200' showing the following:

(1) A vicinity map, showing the location of the property in relation to existing and proposed streets, streams, railroads and existing zoning and land uses of all adjacent properties.

(2) A boundary description (metes and bounds) of the subject parcel including the tax identification numbers (tax map and parcel numbers), the total acreage, the shape and dimensions of the parcel on which the proposed use will be located. Said site plan shall contain a north reference and a graphic scale.

(3) The location, shape, size and type of existing and proposed buildings, walls and fences, outbuildings, loading areas, places of assembly, outdoor display areas, storage areas (indoors and outdoors) and other facilities associated with the use on or near the property; existing and proposed within the required buffers.

(4) Proposed points of vehicle ingress and egress, and the proposed pattern of internal circulation, including all drives and walkways.

(5) Proposed off-street parking and loading facilities and areas.

(6) Proposed provision for utilities including the layout of sanitary sewers, storm drainage, water, gas, telephone and electric lines and irrigation systems where necessary in accordance with applicable local standards, showing the availability of public water and sewer.

(7) The location, size, height, orientation and lighting of all proposed signs.

(8) Proposed refuse disposal equipment and method of refuse disposal.

(9) Delineation of construction phases and their sequential order.

(10) The name, address and telephone numbers of the owners of the subject parcel.

(11) The nature of the proposed use of the building or land, including the extent and location of the use.

(12) The square feet and percentage of lot as built upon area if the lot is located in a watershed.

(13) Any other information that the planning staff may deem necessary for consideration in enforcing all provisions of the Zoning Code.

(B) A grading plan showing existing and proposed topography at no less than ten foot intervals, showing the general directional flow of groundwater runoff with arrows and all drainages, lakes, ponds, swamps, flood plains and streams.

(C) A soil erosion and sedimentation control plan including topography at no less than two and one half foot intervals for all sites greater than one acre in size.

(D) A planting plan showing the number, location, size and name of each plant species and the proposed ground cover, especially on slopes, banks and ditches. If the special use permit is approved, the planting plan shall be carried out within one year of the date of issuance of the certificate of occupancy and all landscaping shall be permanently maintained thereafter. Applications for special use permits, together with all pertinent information and required site plans, must be submitted to the Zoning Enforcement Officer at least 30 days before the meeting of the Planning and Zoning Board at which the application is to be reviewed. At the time of submission, applicants shall pay a fee of \$100 to defray the costs of processing the application, provided, however, that no applicant for a permit for an outdoor storage facility in the extraterritorial jurisdiction of the town shall be required to pay such fee.

(E) Applicants for permits for the operation of outdoor storage facilities shall also provide an approved driveway entrance permit from the North Carolina Department of Transportation/Town of Haw

River for all new entrances and written approval from the town Fire Inspector stating compliance with the North Carolina State Fire Prevention Code. Applicants for permits for the operation of outdoor storage facilities, auto sales or repair facilities, and towing services must provide to the Zoning Enforcement Officer a copy of a valid document that provides proof of operating a legitimate business that would enable the Zoning Enforcement Officer to validate the existence of the operation.
(Ord. passed 11-2-15)

§ 155.082 ADVISORY REVIEW BY THE PLANNING AND ZONING BOARD.

The Planning and Zoning Board shall review special use permit applications to determine their compatibility and/or compliance with the town's planning, zoning and land use policies and regulations. The Planning and Zoning Board may recommend the Board of Adjustment take one of the following actions:

(A) Deny the special use permit.

(B) Approve the special use permit subject to the conditions specified in § 155.086.

(C) Approve the special use permit subject to the conditions specified in § 155.086 and subject to other reasonable conditions or modifications recommended by the Planning and Zoning Board.
(Ord. passed 11-2-15)

§ 155.083 PROCEDURES FOR OBTAINING A SPECIAL USE PERMIT.

(A) After receiving a recommendation from the Planning and Zoning Board, the Board of Adjustment shall hold a public hearing for each special use permit application. Notice of this public hearing shall be published in the same manner as required for a hearing on an amendment to this chapter (see §§ 155.280 through 155.284). At the public hearing the Board of Adjustment shall review the special use permit application and required plans and the recommendations of the Planning and Zoning Board. After the public hearing, the Board of Adjustment may take one of the following actions by simple majority vote:

(1) Deny the special use permit.

(2) Approve the special use permit subject to the conditions specified in § 155.086.

(3) Approve the special use permit subject to the conditions specified in § 155.086 and subject to other reasonable conditions the Board of Adjustment imposes upon the permit. The Board of Adjustment may modify the original plans to reflect such conditions.

(B) Before granting any special use permit, the Board of Adjustment shall require that competent, material and substantial evidence be presented under sworn testimony to support each of the following findings:

(1) All applicable regulations of the zoning district in which the use is proposed are complied with.

(2) All applicable conditions specified in § 155.086 are complied with.

(3) The proposed special use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted or as modified under the conditions required by the Board of Adjustment.

(4) The proposed use is located, designed and proposed to be operated so as to maintain or enhance the value of adjoining property or that the use is a public necessity.

(5) The location and character of the use if developed according to the plan as submitted or as modified under the conditions required by the Board of Adjustment will be in harmony with the area in which it is to be located and in general conformity with the plan of development for the Town Planning Area.

(6) Satisfactory provision has been made for the following, when applicable: vehicle circulation, parking and loading, service and loading entrances and areas, screening, utilities, signs, lighting, open spaces, site grading, soil erosion and sedimentation control and site drainage.

(C) The Board of Adjustment must determine that all of the above findings exist or the application will be denied. All conditions shall be entered into the minutes of the public hearing at which the special use permit is granted, on the special use permit itself, and on the approved plans. All specific conditions shall run with the land and shall be binding on the original applicants, their heirs, successors and assigns.

(D) If the Board of Adjustment denies a request for a special use permit, it shall enter the reasons for its action in the minutes of the public hearing at which the action was taken.

(E) Special use permits for the operation of outdoor storage facilities shall be valid for two years from the date of issue. Anyone operating an outdoor storage facility shall renew his or her permit every two years on or before the passage of two years from it being first issued.

(Ord. passed 11-2-15)

§ 155.084 APPEAL OF DECISIONS OF BOARD OF ADJUSTMENT CONCERNING SPECIAL USE PERMITS.

No appeal may be taken from the action of the Board of Adjustment in granting or denying a special use permit. However, the Board of Adjustment's action on an application for a special use permit shall

be reviewable by the courts as provided by law. Any petition for review shall be filed with the Clerk of Superior Court of Alamance County within 30 days after the decision of the Town Council is filed in the office of the Zoning Enforcement Officer.

(Ord. passed 11-2-15)

§ 155.085 FAILURE TO COMPLY WITH PLANS OR CONDITIONS.

(A) In the event of failure to comply with the plans approved by the Board of Adjustment or with any condition imposed on the special use permit by the Board of Adjustment, the permit shall immediately become void. No building permits or certificates of occupancy shall be issued, and completed structures shall be regarded as nonconforming uses. In addition, the Board of Adjustment shall not be prevented from thereafter rezoning said property for its most appropriate use.

(B) A special use permit shall become null and void two years after the date of its issuance unless construction is begun during this two year period.

(Ord. passed 11-2-15)

§ 155.086 REQUIRED CONDITIONS FOR SPECIAL USE PERMITS.

The conditions listed below shall be complied with by the special use whenever it is established in the specified district under a special use permit. These conditions shall be in addition to applicable regulations of the district in which the use is located and in addition to any other conditions imposed upon the special use permit by the Town Council.

Use:	Adult Uses - Stores, Massage Parlors, Topless Lounges and the like. (Reference G.S. § 14-202.10 for definition of adult bookstore, adult motion picture theater or adult mini motion picture theater)
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Special Use Districts:	I-2
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Requirements:	<ol style="list-style-type: none">1. The required site plan shall show all property lines, buildings, zoning district lines and existing land uses within 1500 feet of the property.2. All windows, doors, openings, entries and the like must be located, covered, screened or otherwise treated so that views into the interior of the establishment are not possible from any public or semi-public area, street or way.3. No adult use shall be established within 1500 feet of any residential zoned land; any church, park, playground, synagogue, convent or library or any areas where large numbers of minors regularly travel or congregate.4. No adult use shall be located within 1000 feet of another.
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Uses: **Auditoriums, Gymnasiums and Stadiums** (where admissions are charged or organized athletic events are held.)

Special Use Districts: R-7, R-G, I&C, B-2, B-1 and I-1

Requirements:

1. A description of the exact type facility planned, the amount of area, including the number of members, participants and/or spectators expected.
2. Access, parking and service areas for all existing and planned facilities.
3. Plans and elevations for all proposed and existing structures with descriptions of the color and nature of exterior materials.
4. A signed statement from the owners and operators that there shall be no activity allowed that will adversely affect adjacent properties, with a complete list of all activities that will take place on the site.
5. Lot size shall be adequate for the method of sewage disposal proposed and for the proposed uses of the facility.
6. The proposed special use shall produce no adverse impacts on the adjacent roads or residential properties.

Uses: **Automobile Laundry (Car Wash) Automobile Body & Fender Repair (Within Enclosed Building) Automobile Repair, Automobile Sales (New and Used) Truck Sales (New and Used), Towing Services**

Special Use Districts: B-3

Requirements:

1. No flashing lights or fluttering devices which are designed and used to attract attention shall be permitted.
2. No outdoor storage of any equipment, merchandise or rubbish shall be permitted.
3. All flood lights shall be turned off at the close of business or at 11:00 p.m., whichever is earlier.
4. No lights shall be so arranged as to direct or reflect light into any residence.
5. No curb cut shall be less than 25 feet from the intersection of any two street curb lines. Curb cuts shall no be wider than 25 feet. No more than two curb cuts shall be permitted on each abutting street.
6. An opaque screen at least eight feet in height must be provided along each property line adjoining residential uses.
7. Customer vehicles undergoing repair or storage must be screened behind an opaque screen at least eight feet in height. It is not the intention of this provision to allow the storage of manufactured homes.

8. All provisions applicable to junkyards, outdoor storage facilities, scrap processors and auto wrecking/salvage establishments shall also be applicable to automobile laundries, automobile body and fender repair, automobile repair, automobile sales, and truck sales facilities. Vehicles being offered for sale to the public are not subject to said provisions provided that said vehicles are in such condition that all licensing, registration and inspection requirements by the NC DMV are met and said vehicles are completely operable and able to be used as intended. Said vehicles may be displayed for sale up to the right of way of any public or private road provided that they are arranged and presented in a neat, orderly fashion. No vehicles shall be placed within the right-of-way of any public or private road. All other vehicles on the premises for the purpose of repair or salvage are subject to all other provisions applicable to aforementioned junkyards, outdoor storage facilities, scrap processors and auto wrecking/salvage establishments except that up to 25 customer vehicles may be exempt from said provisions.

9. All batteries shall be stored indoors or in a shelter that prevents them from being exposed to the elements. Batteries shall be stored so as to prevent their contents from leaching into the soil or being carried by storm water runoff.

10. All tires that are not mounted on rims and properly inflated shall be stored indoors or in a shelter that prevents the tires from being exposed to the elements.

Use: Cemeteries and Mausoleums

Special Use Districts: R-18 and I&C

Requirements:

1. Adequate off-street parking facilities and an internal circulation pattern to accommodate funeral processions.
2. A screen of dense plant material not less than six feet high where cemetery abuts a residential lot.

Use: Fairs, Circuses and Carnivals

Special Use Districts: R-18, B-2, I-1, I-2 and I&C

Requirements:

1. Adequate off-street parking and bathroom facilities.
2. All trash shall be removed in a manner acceptable to the Town Administrator or representative.
3. Activities shall not exceed 30 days duration.

Use: **Clubs, Golf, Swimming and Tennis**

Special Use Districts: R-18, R-12, R-7, R-G and B-2

Requirements:

1. No green shall be nearer to any property line than 150 feet.
2. No tennis court shall be nearer than 75 feet to any interior lot line.
3. No building or swimming pool shall be nearer than 100 feet to any interior lot line.
4. Lighting shall be so shielded as to cast no direct light upon adjacent property.
5. No music audible at the property line of any adjacent residential property shall be permitted.

Use: **Day Care Centers**
Day Care Centers Operated as Home Occupations

Special Use Districts: R-7, R-G, I&C, B-3, B-2, I-1
(Day Care Centers)

R-18, R-12, R-7, R-G, I&C, B-3, B-2, I-1
(Day Care Centers Operated as Home Occupations)

1. A center must meet a permitted building and lot type for the district in which it is to be located.
2. Must have at least 200 square feet of outdoor play area per child or client.
3. Must pass yearly fire inspection.
4. For Day Care Centers Operated as Home Occupations, the day care operation must be located within the residential dwelling unit occupied by the operator of the service.

Use: **Electronic, Internet, or Sweepstakes Gaming**

Special Use Districts: B-2, I-1, except not permitted in any of these districts if in a unified business development

Requirements:

Setbacks:

1. No electronic, internet, or sweepstakes gaming establishment shall be located closer than 1,000 feet to another electronic, internet, or sweepstakes gaming establishment.
2. No electronic, internet, or sweepstakes gaming establishment shall be located closer than 1,000 feet to a public or private elementary or secondary school, child day care center or nursery school, public park, church, religious facility, or community college.

3. No electronic, internet, or sweepstakes gaming establishment shall be located closer than 500 feet from a bar or night club.
4. No electronic, internet, or sweepstakes gaming establishment shall be located closer than 500 feet from residentially zoned property.
5. All measurements shall be made by drawing straight lines from the nearest point of the lot line where the proposed electronic, internet, or sweepstakes gaming establishment is to be located, to the nearest point of the lot line or boundary of the closest electronic, internet, or sweepstakes gaming establishment, residence, residentially zoned district, public or private elementary or secondary school, child day care center or nursery school, public park, church, community college, bar, or night club.

Other restrictions:

1. There shall not be more than one electronic, internet, or sweepstakes gaming establishment in the same building, structure, or portion thereof. Additionally, no other principal or accessory use may occupy the same building, structure, property, or portion thereof with any electronic, internet, or sweepstakes gaming establishment.
2. Flashing lights or fluttering devices designed and used to attract attention are not permitted.
3. Sound amplification shall not be directed outside any building or structure occupied by an electronic, internet, or sweepstakes gaming establishment.
4. Alcohol may not be consumed or sold on any premises with internet or sweepstakes gaming.
5. Any building and/or zoning permits issued for the internet or sweepstakes gaming operation shall be subject to annual review to ensure compliance with all relevant regulations and conditions.
6. No person under the age of 18 will be allowed in the establishment, and age must be verified for each customer at the time of entry into the establishment.

Town's review of special use permit application:

The town staff shall be given 30 days from receipt of a properly completed application to verify the information contained in the application before further steps are taken. The staff shall verify that:

1. The application must contain no misstatement of fact;
2. The applicant has not been convicted of a felony within the past three years, and if convicted of a felony before then, has had citizenship restored; and
3. The proposed site meets building and fire prevention codes and the property complies with zoning requirements.

Revocation: A special use permit issued pursuant to this section may be revoked by action of the Council if it finds that:

1. A misstatement of fact contained in the application is discovered after issuance of the permit.
2. The permittee has violated or allowed to be violated any provision of this section.
3. The permittee violates any zoning, building, or fire prevention ordinance.
4. The permittee operates any unlawful game of chance at which any money, property, or other thing of value is bet, whether the same be in stake or not, including, but not limited to, “numbers,” “tickets,” pyramid and chain schemes, faro bank and tables, punchboards, slot machines, vending machines, or game tables.

Use: **Flea Market**

Special Use Districts: I&C, B-3, B-2, BG, CMX, I-1

Requirements:

1. A minimum lot area of one acre is required;
2. Flea market uses will not be allowed as an accessory use;
3. Adequate and safe permanent public restrooms and/or toilet facilities are required. No portable restroom facilities will be allowed;
4. If all or a portion of the flea market use will take place outdoors, the following regulations apply:

- a. Sales or display areas shall not encroach upon any required setback, block sidewalks or parking areas, or impede vehicular or pedestrian traffic;
- b. All tables, stands, and/or other display equipment and all vehicles shall be removed from the parcel any time that the flea market is not open to the public;
- c. All sales items shall be stored indoors when the flea market is not open for business or removed from the site at the close of business each day; and
- d. All screening and fencing requirements for the zone within which the proposed flea market will be set shall apply.

Use: **Golf Courses**

Special Use Districts: R-18, R-12, R-7, I-1 and I-2

Requirements:

1. No green may be nearer to any property line than 150 feet.
2. No building may be nearer to any property line than 100 feet.

3. Lighting must be shielded as to cast no direct light upon adjacent property.

Use: **Group Homes**

Special Use Districts: R-18, R-12, R-7, R-G, I&C

Requirements:

1. One parking space for every five temporary residents, plus one space for each employee.
2. Sign not to exceed four square feet.
3. Shall be licensed and/or sponsored by the appropriate state or local agency.
4. Shall not be located within a 1,000 foot radius of a zoning lot containing another such facility.

Use: **Jails and Prisons**

Special Use Districts: I-1 and I-2

Requirements:

1. Lighting must be shielded as to cast no direct light upon adjacent property.
2. An opaque screen at least eight feet in height must be provided along each property line adjoining residential uses.
3. All plans for such facilities must be approved by appropriate state and/or county agencies prior to being submitted as part of the special use permit application process.

Use: **Junkyards (Outdoor Storage Facilities), Scrap Processors, Manufactured Home Storage/Scrap Yards and Auto Wrecking/Salvage**

Special Use District: I-2

Requirements:

1. Located on a minimum of 600 square feet of land.
2. Suitable landscaping, screening and fencing to protect adjoining properties and views from the public right-of-way and to screen such special uses from public view. It shall be the responsibility of the Zoning Enforcement Officer and/or his/her agent to determine whether or not the screening requirements of this section that have been implemented are effective. A combination of natural or planted vegetation and/or fencing may be used to accomplish the desired effect. Must include a wall, fence or planted buffer at least eight feet high to completely screen all stored items. Planted buffers must have a minimum width of at least ten feet. Natural vegetation buffers may be used in place of planted buffers provided that said natural vegetation buffer has a minimum width of at least 20 feet and is composed of varied species composition so as to provide a year-round effective sight barrier. If a natural buffer ceases to provide an effective visual barrier, it shall be replaced by another permitted option for screening as provided by this Code. A 100-foot buffer of undisturbed vegetation shall be maintained around all reservoirs, lakes and ponds. Buffers, screening and fencing may coexist within the setback areas described in this Code but shall not be within the right of way of any public or private road. Planted buffers, if used, shall be planted in doubled, staggered rows and shall obtain an effective height to screen from view the stored materials within three years of being planted. All natural or planted buffers shall be approved by the Zoning Enforcement Officer.
3. A preliminary site plan showing the location and dimensions of existing and proposed structures, walls or fences, roads, off-street parking and loading areas, and pertinent information, including, but not limited to topography, hydrology and zoning for all parcels within 500 feet of the property, to assist in determining the probable effect of the proposed special use on neighboring properties, and to carry out the intent of this chapter.
4. No such facility shall be permitted within 200 feet of any residential district nor located within 1/4 of a mile from any church or school, playground, athletic field, recreation center, community center, or any facility where children normally gather; nor shall any such facility be located within the water critical area of any WS-II Watershed Protection District.

5. Conformance to any standards recommended by the Fire Department may be required. In no case shall the storage of any combustible materials be permitted within 50 feet of a property line.
6. Conformance to any standards recommended by the Fire Department may be required. In no case shall the storage of any combustible materials be permitted within 50 feet of a property line.
7. Required fences may be solid or perforated and shall have gated entrances. All gates shall be securely locked at all times except during business hours. If said fence is to serve as screening, it must then be a solid fence, constructed of approved materials to create an attractive and effective sight barrier. It shall be the responsibility of the Zoning Enforcement Officer to determine the effectiveness of such a fence. Storage of materials higher than seven feet may require additional height to be added to the fence to provide adequate screening, but for no reason shall be less than eight feet in height. Construction materials for said fence shall include wood, masonry products, and metal. All fences used for this purpose shall be attractive and shall not in and of themselves create nuisances. All fences used in conjunction with this section shall be maintained in good order and shall be located on the property.
8. All batteries shall be stored indoors or in a shelter that prevents them from being exposed to the elements. Batteries shall be stored so as to prevent their contents from leaching into the soil or being carried by storm water runoff. When crushing vehicles on site, it shall be the responsibility of the owner/operator of the facility to properly drain, store and dispose of all toxic, hazardous and flammable liquids and materials prior to crushing said vehicles.
9. All tires that are not mounted on rims and properly inflated shall be stored indoors or in a shelter that prevents the tires from being exposed to the elements.
10. No dismantled, abandoned, or wrecked manufactured home may be stored on any property in the Town of Haw River unless in compliance with all of the terms and conditions of this Code. All manufactured homes in the Town of Haw River are subject to the Town of Haw River Manufactured Home Ordinance.

Use: **Landfills, Demolition**

Special Use District: R-18 and I-2

Site Requirements:

1. The demolition landfill shall be a minimum of two acres.
2. The demolition landfill shall be completely enclosed with a security fence or dense hedge of plantings approved by the Zoning Enforcement Officer to serve as a barrier to vehicular access and completely screen the landfill from view.

3. A minimum setback of 75 feet from any public right-of-way and a minimum of 500 feet from any residentially zoned property shall be maintained.
4. A rehabilitation/reuse plan shall accompany the application for a special use permit and shall be implemented by the owner of the site within six months of the landfill's closing.
5. Special use permits for demolition landfills shall be valid for no more than five years from their date of approval and shall be reviewed annually to insure compliance with all conditions of the permit.
6. Other conditions necessary to protect the public health, safety and general welfare may be imposed by the Town Council as requirements for the granting of a special use permit. Such conditions may include, but shall not be limited to, the hours of operation and measures to control dust and debris on access roads.

Use: **Lodges, Civic, Social and Fraternal Organizations (Not Used for Parties at Night)**

Special Use District: I&C

- Requirements:**
1. The site shall be at least one acre in size.
 2. No structure, parking area or activity area shall be located less than 40 feet from any property line.
 3. Lighting shall be so shielded as to cast no direct light upon adjacent property.
 4. No public address system shall be permitted unless within a building.
 5. No music audible at the property line of any adjacent residential property shall be permitted.

Use: **Manufactured Home Parks**

Special Use District: R-G

- Requirements:**
1. Conformance with the Haw River Manufactured Home Parks Ordinance (Chapter 153).
 2. Conformance with the "Regulations Governing the Sanitary Design, Construction, Alteration, Maintenance, Operation and Use of Manufactured Homes and Manufactured Housing Parks in Alamance County," of the Alamance County Board of Health.
 3. A 15 foot wide buffer strip along the rear and side property lines of the park of densely planted trees and shrubs expected to grow to a height of eight feet.
 4. Common recreation area(s) provided at a rate of 200 square feet for each manufactured home lot.

Use: **Manufactured Homes, As a Temporary Dwelling**

Special Use District: R-18, R-12, R-7, R-G

Requirements:

1. Only one manufactured home may be permitted in a rear yard as an accessory use on a temporary basis subject to the Haw River Board of Adjustment making a finding that a personal hardship situation exists. Such hardship shall involve the need to care for elderly parents or other dependents of the family occupying the principal building. Reasons justifying separate quarters shall be contagious disease, illness or lack of adequate quarters within the principal building.
2. Temporary use permits may be issued for one year. Application for the permit shall be made to the Zoning Enforcement Officer and shall be reviewed by the Board of Adjustment to determine need. All such mobile homes must have access to water and sewer systems in a manner approved by the Town of Haw River or Alamance County Health Department. Application for continuation of a special use permit shall be made every year and shall be reviewed by the Board of Adjustment without a public hearing.
3. Manufactured homes shall be maintained in such a way as to create no nuisance conditions and shall comply with the dimensional requirements of this district.

Use: **Nursing Homes, Convalescent Homes**

Special Use Districts: R-18, R-12, R-7, I&C and B-3

Requirements:

1. One parking space for every three beds.
2. A densely planted buffer strip along the rear and side property lines expected to grow to a height of eight feet to screen the facility from adjoining residential land uses.
3. All state and/or county licensing and inspection to be maintained at all times.

Use: **Planned Unit Developments**

Special Use Districts: R-G, R-12 and B-2

Definition: When a tract of land is under unified control and contains at least 15 acres, the developer may be allowed to deviate from the strict application of use, setback, height and minimum lot size requirements of zoning districts in order to permit a creative approach to the development. In exchange for this flexibility, the developer must comply with all

requirements for obtaining a special use permit and the requirements listed below. This approach is a voluntary alternative, it is not mandatory for the development of any parcel of land.

Permitted Uses: All the permitted uses in the zoning district where the PUD is located are allowed.

Dimensional Requirements: Yard, setback, lot size, type of dwelling unit and frontage requirements may be waived, provided the spirit and intent of this section are met in the total development plan. However, certain dimensional requirements may be required for all or portions of the site.

Density Requirements: The site's overall density (dwelling units per acre) may be increased if the character or amenities incorporated into the development warrant such increases, provided that the density increase does not exceed 33% of density allowed under standard zoning regulations. If any of the following conditions would be created by an increase in density, the application for an increase in density may be denied, or the density increase may be limited to an amount sufficient to avoid the creation of any of the following conditions:

1. Inconvenient or unsafe access to the development or traffic congestion in streets adjoining the development.
2. An excessive burden imposed on parks, recreational area, schools and other public facilities or services which serve or are proposed to serve the development.

Open space Requirements: All common open space, shown on the final development plan and recorded in the office of the Town Administrator must be conveyed through either dedication to the town (and maintained as publicly owned common open space), or through leasing or conveying title (including beneficial ownership) to a corporation, association or other legal entity. The developer must file in the County Register of Deed's Office legal documents which prove a method for restricting the use of common open space for the designated purposes.

Circulation Requirements: The arrangement of public and common ways for pedestrians and vehicular circulation in relation to other existing or planned streets in the area, together with provisions for street improvements, shall be in

compliance with standards set forth in the municipal subdivisions regulations. The Town Council may deviate from these standards if the proposed changes or alterations are consistent with the spirit and intent of this section.

Utility Requirements: Whenever possible, all utilities (including telephone, cable TV and electric service) will be underground. The installation and maintenance of utilities shall be in accordance with the requirements and regulations of all applicable governing bodies. Public or quasi-public water and sanitary sewer service shall be required, unless the developer can show good cause that these requirements should be waived, without being inconsistent with the spirit and intent of this section.

Review Procedures: Review under applicable codes and ordinances shall be carried out as an integral part of the review of a Planned Unit Development. The plans required under this subsection must be submitted in a form which satisfy requirements of the codes and ordinances for the preliminary and final plat approvals.

Use: **Quarries**

Special Use District: I-2

Required Plans: A site plan shall be submitted showing the location of proposed facilities or structures within the site as well as existing structures, water courses and zoning district boundaries within the property and within 500 feet of the property.

Setback & Fence Requirements:

1. The edges of any pit where quarrying will take place and where any equipment will be used in the processing of rock and gravel shall be located at least 50 feet from all property lines and zoning district boundary lines. Where the quarry site is bounded by a railroad right-of-way currently being used for rail service, no yard or setback shall be required between the railroad right-of-way and the quarry operation. This provision shall apply to any asphalt plant or other industrial uses operated in conjunction with the quarry.
2. Quarry operations shall be enclosed by a wire or masonry fence at least five feet in height. A wire fence shall have at least four strands of wire. The wire fence required by the "Rehabilitation" section of this provision may be substituted for this requirement provided it is located at least 25 feet from the edge of all pits. Where the property lines have been enclosed prior to the time of adoption of this chapter with a fence

constructed as described herein, this section shall be deemed to have been complied with.

Noise and Dust
Conditions:

All operations involving blasting discernible beyond the external property line of a quarry shall only be conducted between the hours of 8:00 a.m. and 6:00 p.m. Dust resulting from the operation of a quarry which may be air borne to other properties shall be reduced to a minimum by sprinkling or other means.

Access Roads:

Auxiliary access roads, not to be used for general truck traffic, may be constructed within the 50 foot setback area as required above, provided such road is furnished with a gravel or crushed stone surface and is maintained in a dust-free manner. No part of such roads shall be located closer than 15 feet to an external property line other than a highway or railroad right-of-way line. All access roads shall intersect as nearly as possible at right angles with public roads and shall not intersect any public road at an angle of less than 60 degrees.

Rehabilitation:

When quarrying operations at any pit are terminated and no further production is to be undertaken, all stock piles of overburden shall be backfilled into the pit within 30 days after termination. All pits shall be backfilled to a slope of one foot vertical or less, to one foot horizontal from the bottom of the pit to the surface of the ground. A nonclimbable fence may be erected in lieu of such sloping around the edge of all pits with a depth of 20 feet or more. Such fence shall be at least six feet in height and constructed of wire mesh in rectangular shapes not exceeding two inches. Locations abandoned at the time of adoption of this chapter which have a fence of at least five strands of barbed wire, erected in conformity with standards of the North Carolina Department of Labor, are deemed to have complied with this section. The channelization of drainage at quarry sites shall be designed and controlled so as not to cause erosion or silting of neighboring properties or public ways, nor to appreciably increase the turgidity of any natural watercourse or to occlude any existing drainage course.

Nuisances:

It is the specific intent of this section that it shall not have the effect of barring the bringing of legal and equitable actions by private persons or government agencies seeking redress against nuisances or other damages committed by the owner or operator of any rock quarry.

Use: **Race Tracks for Automobiles, Motorcycles or Other Motorized Vehicles**

Special Use Districts: I-1 and I-2

Requirements:

1. An opaque screen at least eight feet in height must be provided along each property line adjoining residential uses.
2. Adequate off-street parking and bathroom facilities.
3. Adequate control of noise, dust, fumes, lights, traffic and visual impact, so as not to constitute a nuisance.

Use: **Specialty Shops (Located in structures originally designed for residential uses)**

Special Use Districts: I&C

Requirements:

1. No more than two salespersons may be employed on the premises at any given time.
2. No flashing lights or fluttering devices which are designed and used to attract attention shall be permitted.
3. No lights shall be so arranged as to direct light into any residence.
4. If the shop is within 100 feet of any dwelling, other than that of the shop operator, the shop shall not operate between the hours of 6:00 p.m. and 9:00 a.m.

Use: **Stables, Commercial (Including Riding Academies)**

Special Use Districts: R-18, I-1 and I-2

Requirements:

1. The site shall be of adequate size to protect adjacent properties from adverse effects of the riding stable or academy.
2. No part of any building, structure, corral or riding arena shall be closer than 150 feet from a property line unless completely housed within an enclosed building.
3. Adequate access, parking and service areas for all existing and planned facilities.

Use: **Telecommunication Tower**

Special Use District: R-18 and R-12

Requirements:

1. Towers are constructed to be inconspicuous and a six foot high fence be built around the tower, so as not to allow any unauthorized person to climb the tower.

2. Tower and all related structures shall meet all zoning set back requirements.
3. Shall not be placed on top of any structure (not to include non-commercial towers).
4. The location of a tower may not be any closer than the length of the tower plus 50 feet from any non-related structure.
5. Mono-towers (single user towers) are prohibited.

Use: **Theaters, Drive-in**

Special Use Districts: B-2, I-1 and I-2

- Requirements:**
1. An eight foot high opaque screen shall be required except at driveways. Where any residence would have a view of the viewing screen, a thick screen of evergreens at an initial height of at least five feet and capable of forming at maturity a visible barrier between the heights of four feet and 20 feet shall be provided along the theater property line.
 2. The lot shall abut or have easy access to a major thoroughfare or collector street.
 3. The viewing screen shall be directed away from major thoroughfares or collector streets.
 4. Lighting shall be shielded so as to cast no direct light on adjoining property.
 5. Sound shall be delivered to each car by individual speakers. No loudspeakers shall be used.
 6. On-site automobile standing space for 20 vehicles awaiting admission shall be provided at each box office. Each box office shall open not later than 30 minutes prior to the scheduled starting of the first feature. The scheduled starting time of the first feature shall be prominently displayed.

Use: **Tourist Home/Bed and Breakfast**

Special Use Districts: R-18 and R-12

- Requirements:**
1. Applicant shall have access to major thoroughfares.
 2. Parking shall in the rear yard at one space for each room to be rented plus one space for each employee plus two spaces for permanent occupants of the dwelling.
 3. Applicant must submit a plat showing the location of parking, buildings, outside recreational areas and buffering. The plat shall show or state the type of buffering.
 4. All parking and recreational areas shall be buffered from adjacent properties by a buffer strip consisting of a screened fence or a planted

strip at least five feet in width, composed of deciduous or evergreen trees or a mixture of each, no less than one row dense shrubs, spaced not more than five feet apart.

5. Signs identifying the operation shall be non-illuminating and shall be either wall or yard signs, no more than two square feet in area.

Use: Unified Business Developments

Definition: A tract of land, three or more acres in size, divided and developed into two or more principal building sites for occupancy by separate firms, businesses or other commercial enterprises. Includes such uses as shopping centers, office parks and light industrial parks.

Special Use Districts: I-1 and B-2

Requirements:

1. An analysis of anticipated traffic volume and evidence that the North Carolina Department of Transportation is aware of the proposed project.
2. Such developments shall abut a major thoroughfare, minor arterial or collector street (existing or proposed) as shown on the Burlington Metropolitan Area Thoroughfare Plan and direct access thereto.
3. All uses permitted in the B-2 District are permitted except for the following, which are not permitted: dwellings; animal hospitals and veterinary clinics; automobile repair; automobile laundries (car washes); automobile sales; amusements; bottling or dairy plants; commercial campgrounds; commercial camping and recreational vehicle parks; contractors (offices only are permitted); day care centers; dry cleaning and pressing plants; farms; farm machinery sales, storage and repair; funeral homes; golf courses; all types of hospital; kennels; laundries (except self-service); lodges; mobile home sales; nursing homes; plumbing shops; sign manufacturing, painting and maintenance; stonecutting, monument manufacturing and sales; tire recapping and retreading (as a principal use); truck sales; and wholesale distributors.
4. Drive-in establishments offering goods or services directly to customers in parked cars shall be permitted only when the location of buildings and access drives have been approved by the Town Council.
5. All business establishments shall be retail or service establishments dealing directly with the public.
6. All uses shall be completely enclosed in buildings except for plant sales, sidewalk cafes and permitted drive-ins.
7. An opaque screen shall be provided wherever, in the Town Council's judgment, such screening is necessary to shield adjacent residential districts.

Use: Utilities, Public Distribution and Transmission Lines, Transformers, Telephone Exchanges (without offices), Water Tanks and Fire Towers.

Special Use District: In all zoning districts

Requirements:

1. Adequate fencing to protect the public health, safety and welfare (especially to enclose all transformers, substations and towers).
2. Adequate screening from adjacent residential uses.
3. Adequate lot size to allow for a tower to be accommodated on site if it should collapse or be blown over.
4. Adequate service area.

(Ord. passed 11-2-15; Am. Ord. passed 1-7-19)

VESTED RIGHTS

§ 155.100 PURPOSE.

The purpose of this section is to implement the provisions of G.S. § 160A-385.1 pursuant to which a statutory zoning vested right is established upon the approval of a site specific development plan.
(Ord. passed 11-2-15)

§ 155.101 DEFINITIONS.

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

APPROVAL AUTHORITY. The Town Council, or other board or official designated by ordinance or this section as being authorized to grant the specific zoning or land use permit or approval that constitutes a site specific development plan.

LANDOWNER. Any owner of a legal or equitable interest in real property, including heirs, devices, successors, assigns and personal representatives of such owner.

PROPERTY. All real property subject to the zoning regulations, restrictions and zoning boundaries of this chapter.

SITE SPECIFIC DEVELOPMENT PLAN. A plan which has been submitted to the town by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property and which is required as part of a permit approval process, such as the special use permit approval process (see §§ 155.080 through 155.086).

ZONING VESTED RIGHT. A right pursuant to G.S. § 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan.

(Ord. passed 11-2-15)

§ 155.102 SITE SPECIFIC DEVELOPMENT PLAN REQUIREMENTS.

(A) The landowner of a property may allow a person holding a valid option to purchase to act as his or her agent or representative for purposes of submitting a proposed site specific development plan in the manner allowed by ordinance.

(B) In addition to other features required on a plan by other applicable land development ordinances of the town, a site specific development plan shall include the exact boundary lines of the site; significant topographical or other natural features effecting development of the site; the approximate location on the site of the proposed buildings, structures and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of the all existing and proposed infrastructure on the site, including water, sewer, streets and pedestrian walkways.

(C) Notwithstanding the foregoing, height a variance, a sketch plan, nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development plan.

(D) At the time of application for approval of a site specific development plan, the landowner shall submit five copies of the plan and shall pay any and all applicable fees required to offset the cost of notice and other administrative expenses involved in the review of such plan.

(Ord. passed 11-2-15)

§ 155.103 ESTABLISHMENT OF ZONING VESTED RIGHT.

(A) A zoning vested right shall be deemed established upon the valid approval or conditional approval, by the Town Council of a site specific development plan following notice and public hearing.

(B) The approval authority may approve a site specific development plan upon such terms and conditions as may reasonable be necessary to protect the public health, safety and welfare.

(C) Approval of a site specific development plan with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained (notwithstanding divisions (A) and (B)).

(D) A site specific development plan shall be determined approved upon the effective date of the approval authority's action or ordinance relating thereto.

(E) The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the town, including, but not limited to, building, fire, plumbing, electrical and mechanical codes. Otherwise, applicable new regulations shall become effective with respect to property that is subject to a site specific development plan upon expiration or termination of the vested right in accordance with this section.

(F) A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of site specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

(Ord. passed 11-2-15)

§ 155.104 APPROVAL PROCEDURES AND APPROVAL AUTHORITY.

(A) Except as otherwise provided in this section, an application for site specific development plan approval shall be processed in accordance with the procedures established by ordinance and shall be considered by the designated approval authority for the specific type of zoning or land use permit or approval for which application is made.

(B) Notwithstanding the provisions of division (A) of this section, if the authority to issue a particular zoning or land use permit or approval has been delegated by ordinance to a board, committee or administrative official other than the Town Council, in order to obtain a zoning vested right, the applicant must request in writing at the time of application that the application be considered and acted on by the Town Council, following notice and a public hearing as provided in G.S. § 160A-364.

(C) In order for a zoning vested right to be established upon approval of a site specific development plan, the applicant must indicate at the time of application, on a form to be provided by the town, that a zoning vested right is being sought.

(D) Each map, plat, site plan or other document evidencing a site specific development plan shall contain the following notation: "Approval of this plan establishes a zoning vested right under G.S. § 160A-385.1. Unless terminated at an earlier date, the zoning vested right shall be valid until ____."

(E) Following approval or conditional approval of a site specific development plan, the applicant shall retain one approved copy for his or her records, one approved copy shall be kept on file in the office of the Zoning Enforcement Officer and one approved copy shall be recorded in the office of the Alamance County Register of Deeds.

(F) Following approval or conditional approval of a site specific development plan, nothing in this section shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.

(G) Nothing in this section shall prohibit the revocation of the original approval or other remedies for failure to comply with the applicable terms and conditions of the approval or the zoning ordinance. (Ord. passed 11-2-15)

§ 155.105 DURATION.

(A) A zoning right that has been vested as provided in this section shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site specific development plan.

(B) Upon issuance of a building permit, the expiration provisions of G.S. § 160A-418 and the revocation provisions of G.S. § 160A-422 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding. (Ord. passed 11-2-15)

§ 155.106 TERMINATION.

A zoning vested right, once established as provided for in this section, precludes any zoning action by the town which would change, alter, impair, prevent, diminish or otherwise delay the development or use of the property set forth in the approved site specific development plan until such right is terminated. A zoning right that has been vested shall terminate:

(A) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

(B) With the written consent of the affected landowner.

(C) Upon findings by the Town Council, by ordinance and after notice and a public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety and welfare if the project were to proceed as contemplated in the site specific development plan.

(D) Upon payment to the affected landowner of compensation for all costs, expenses and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing and all architectural, planning, marketing, legal and other consultant's fees incurred after approval by the town, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action.

(E) Upon findings by the Town Council, by ordinance after notice and a hearing, that the landowner or his or her representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development plan.

(F) Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in state or federal law has fundamental effect on the plan, by ordinance after notice and a hearing.

(Ord. passed 11-2-15)

§ 155.107 VOLUNTARY ANNEXATION.

A petition for annexation filed with the town under G.S. § 160A-31 or G.S. § 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under G.S. § 160A-385.1 or G.S. § 153A-344.1. A statement that declares that no zoning vested right has been established under G.S. § 160A-385.1 or G.S. § 153A-344.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall not be binding on the landowner, and any such zoning vested right shall be terminated.

(Ord. passed 11-2-15)

§ 155.108 LIMITATIONS.

Nothing in this subchapter is intended or shall be deemed to create any vested right other than those established pursuant to G.S. § 160A-385.1.

(Ord. passed 11-2-15)

§ 155.109 REPEALER.

In the event that G.S. § 160A-385.1 is repealed, this subchapter shall be deemed repealed and the provisions hereof no longer effective.

(Ord. passed 11-2-15)

AREA, YARD, HEIGHT AND SCREENING REQUIREMENTS**§ 155.120 TABLE OF AREA, YARD, HEIGHT AND SCREENING REQUIREMENTS FOR ZONING DISTRICTS.**

<i>Zoning Districts</i>	<i>Minimums</i>						<i>Maximum</i>
	<i>Lot Area in Square Feet</i>	<i>Lot Width in Feet</i>	<i>Front Yard Setback in Feet</i>	<i>Side Yard Setback in Feet</i>	<i>Side Yard Setback Abutting a Street</i>	<i>Rear Yard Setback in Feet</i>	<i>Building Height in Feet</i>
R-18 Low Density Residential	18,000	100	30	10	15	30	35
R-12 Medium Density Residential	12,000	80	25	10	15	30	35
R-7 High Density Residential (C)			20	10	15	30	35
Single-Family	7,000	60					
Two-Family	11,000	80					
R-G General Regulations (C)			20	10	15	30	35
Single-Family	7,000	60					
Two-Family	11,000	80					
3 units - multi-family (A)	15,000	95	25/40 (D)	20	25/40 (D)	20	(3- story maximum)
4 units - multi-family (A)	17,000						
>4 units multi-family (A)	17,000 + 1,500 for each additional unit						
I&C Institutional & Community	None	None (E)	20	10(F)	15	20(F)	50
B-1 Central Business	None	None (E)	20	10	15	20	None
B-1.2 Central Business District II	None	None	None	None	None	None	None
B-2 General Business	None	None (E)	20	10	10	20	None
B-3 Neighborhood Business (A)(J)	20,000(F)	None (E)	20	10	10	20	None

<i>Zoning Districts</i>	<i>Lot Area in Square Feet</i>	<i>Lot Width in Feet</i>	<i>Minimums</i>			<i>Maximum</i>	
			<i>Front Yard Setback in Feet</i>	<i>Side Yard Setback in Feet</i>	<i>Side Yard Setback Abutting a Street</i>	<i>Rear Yard Setback in Feet</i>	<i>Building Height in Feet</i>
I-1 Light Industrial (B)	None	None (E)	20	20	20	20	None
I-2 Heavy Industrial (B)	None	None (E)	20	20	20	20	None

NOTE: Letters shown in parentheses in the above table indicate notes to the table and are found in § 155.121.

(Ord. passed 11-2-15; Am. Ord. passed 6-18-18; Am. Ord. passed 12-3-18)

§ 155.121 NOTES TO TABLE.

(A) All rear and side property lines abutting a residential zoning district require the erection of an opaque fence or screen at least six feet in height and designed in such a way as to obstruct the view from abutting residential zoning districts. Screens are not to be brightly colored, multicolored or otherwise visually obtrusive; colors and textures are to be visually harmonious with nature and with surrounding residential structures and buildings. The planting or maintenance of a vegetated buffer strip, as described in division (B), may be substituted for this fence or screen requirement.

(B) All rear and side property lines abutting a residential zoning district require the planting of a new or maintenance of an existing, densely vegetated buffer strip, at least ten feet wide, and consisting of evergreen trees and shrubs, which at maturity will reach a minimum height of ten feet.

(C) Area, yard, height and screening requirements for mobile homes on individual lots are the same as for single-family dwellings. Such requirements for mobile home parks are contained in Chapter 153.

(D) Front yard setbacks for multi-family developments, as specified in the table below, vary based on where the development is located. In no case shall a setback greater than 40 feet be required.

<i>Location of Multi-Family Dwelling(s)</i>	<i>Minimum Front Yard Requirement</i>
Along NC Highway 49, US Highway 70 & Wilkins Road.	40 feet or 1 ½ times the building height, whichever is greater.
Within 500 feet of an R-18 Residential District.	40 feet or 1 ½ times the building height, whichever is greater.
Within 500 feet of an R-12 Residential District.	35 feet or 1 ½ times the building height, whichever is greater.

*Location of Multi-Family Dwelling(s)**Minimum Front Yard Requirement*

All other locations.

25 feet or $1\frac{1}{4}$ times the building height,
whichever is greater.

(E) Minimum lot width shall be sufficient to accommodate building(s) and all minimum side yard requirements.

(Ord. passed 11-2-15; Am. Ord. passed 12-3-18) Penalty, see § 155.999

§ 155.122 EXCEPTIONS AND MODIFICATIONS TO AREA AND YARD REQUIREMENTS.

(A) *Projection of sills, eaves and the like into required yards.* Every part of a required yard shall be open and unobstructed from its lowest level to the sky, except for ordinary projection of sills, belt courses, chimney flues, buttresses, ornamental features and eaves, provided, however, that none of the aforesaid projections shall project into a minimum side yard more than one-third of the width of such side yard.

(B) *Projection of fire escapes and the like into required yards.* Open or lattice-enclosed fire escapes, fire proof outside stairways and balconies opening upon fire towers projecting into a yard not more than four feet shall be permitted where so placed as not to obstruct light and ventilation.

(C) *Established front yard lines.* Established average front yard lines shall be observed where lots comprising 40% or more of the frontage on one side of a block are developed with buildings at the time of adoption of the ordinance, the average alignment of the existing building along such frontage shall be the minimum front yard required along said side of said block and no building hereafter erected or structurally altered shall project beyond the average front yard lines.

(D) *Reduction of minimum front yards and the buildings on the two lots are within 100 feet of a proposed structure, where adjoining lots have less than required minimum.* Where the front yards of adjoining lots on either side of a lot are less than the minimum front yard of the district, the average front yard of the adjoining lots shall be the minimum front yard for such lot, or within ten feet of the street right-of-way line, whichever is greater.

(E) *Corner lots adjoining along common rear lot line.* Where a corner lot in any district adjoins a corner lot in a residential district along a common rear lot line, the minimum side yards along the common street line shall be 20 feet. Accessory buildings shall also be subject to this requirement.

(F) *Front yards on through lots.* On through lots the minimum front yards for the respective districts shall apply wherever such lots have frontage on a public street.

(G) *Projection of bay windows into required yards.* A bay window occupying not to exceed 30% of the width of the building may project not more than three feet into the front yard.

(H) *Visibility at intersections.* On a corner lot in any residential district no planting, structure, fence wall or obstruction to vision more than three feet in height shall be placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line connecting points on said street lines each of which is 25 feet distant from the point of intersection.

(I) *Yards abutting railroad tracks.* No yard shall be required along the side or rear of a non-residential lot where the side or rear respectively of such lot abuts a railroad track which is or will be used to provide railroad service to the lot.

(J) The requirements of § 155.124 shall not apply to property zoned B-1.2 Central Business District II.

(Ord. passed 11-2-15; Am. Ord. passed 6-18-18) Penalty, see § 155.999

§ 155.123 MODIFICATION OF HEIGHT LIMITS.

(A) *Measurement of building height (general)*. Except as otherwise provided in this chapter, the height of a building shall be the vertical distance from the mean elevation of the finished grade, along the front of the building, or from the established grade where the building is within ten feet of the street line to the highest point.

(B) *Parapet walls and cornices*. Nothing in this chapter shall apply to prevent the erection above the height limit of a parapet wall or cornice extending above such height limit not more than five feet.

(C) *Appurtenant structures on roofs*. Skylights, domes, flagpoles, cooling towers and structures for the housing of elevator equipment, stairways, tanks, fans, air conditioning or similar equipment required for the operation or maintenance of buildings may be erected above the height limit in any district.

(D) *Height limitations*. The height limitations of this chapter shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy, chimneys, monuments, smokestacks, water towers, cooling towers, observation towers, radio and television transmission towers, conveyors, flag poles, masts, aerials, necessary mechanical appurtenances, elevators, bulkheads, scenery lofts and similar structures, except as otherwise required in the vicinity of airports.

(Ord. passed 11-2-15)

§ 155.124 MULTI-FAMILY AREA, YARD AND HEIGHT REQUIREMENTS.

Multi-family dwellings shall comply with all of the above requirements specified for multi-family uses and the following additional requirements:

(A) *Front and side yards on lots over 40,000 square feet.* On lots of more than 40,000 square feet in area which contain three or more dwelling units, all buildings shall observe front yard setback requirements from any public street on which the lot abuts.

(B) *Lot coverage.* The total ground area covered by the building(s) and all accessory buildings, including any roofed area, shall not exceed 40% of the total lot area.

(C) *Usable open space.* A minimum of 10% of the total land area of a lot containing three or more dwelling units shall be usable open space, as defined in § 155.006. On lots where the required usable open space is less than 20,000 square feet, such space should be approximately square, but in no case shall the length of such required space be more than twice its average width. On lots where the required usable open space is 20,000 square feet or more, the minimum dimension of such space shall not be less than 100 feet, and the minimum size space allowable as meeting a part of the required usable open space shall be 20,000 square feet.

(D) *Private usable open space.* The total usable open space as required above may be reduced by 50% if a minimum of 500 square feet of private usable open space is provided for each dwelling unit. Such space shall be directly accessible and adjacent to the dwelling unit it serves and shall be so arranged and screened to prevent public traffic through such space and provide reasonable privacy from public view. Private usable open space shall be suitable for recreational activity and shall be unobstructed except for plants, lawn furniture and play equipment. Private terraces and walkways may be included in such open space. Parking areas, vehicle drives and storage areas shall not be included in open space. The minimum dimension of any such private open space shall not be less than 15 feet.
(Ord. passed 11-2-15)

OFF-STREET PARKING AND LOADING REQUIREMENTS

§ 155.135 GENERAL REQUIREMENTS.

(A) A parking space is an area for storage of vehicles separate from driveways and circulation aisles. A parking space shall consist of an area at least nine feet wide and at least 18 feet deep. In all districts, there shall be provided at the time of the erection of any building or at the time any principal building is enlarged or increased in capacity or before conversion from one type of use or occupancy to another, permanent off-street parking spaces in the amount specified by this chapter. Adequate maneuvering space to allow vehicle entrance into each parking space shall be provided. All off-street parking spaces required by this chapter shall lie entirely outside any street right-of-way and shall not be used for any purpose except parking. Such parking spaces may be provided in a parking garage or properly graded open area.

(B) Where the Town Council determines that the off-street parking requirements of this chapter would impose undue hardship upon development of a lot in the B-1 Central Business District, it may reduce or waive off-street parking requirements for that lot.

(C) All off-street parking requirements in the B-1.2 Central Business District II are waived.
(Ord. passed 11-2-15; Am. Ord. passed 6-18-18) Penalty, see § 155.999

§ 155.136 CERTIFICATE OF MINIMUM PARKING AND LOADING REQUIREMENTS.

Each application for a zoning permit submitted to the Zoning Enforcement Officer as provided for in this chapter shall include information as to the location and dimensions of off-street parking spaces and loading berths and the means of ingress and egress to such spaces and berths. This information shall be in sufficient detail to enable the Zoning Enforcement Officer to determine whether or not the requirements of this chapter are met.

(Ord. passed 11-2-15)

§ 155.137 EXCEPTIONS.

(A) *Remote parking spaces.* Except for dwelling units, if the off-street parking space required by this chapter cannot reasonably be provided on the same lot on which the principal use is located, such space may be provided on any land within 400 feet of the main entrance to such principal use, provided such land is in the same ownership as the principal use and provided such land is in a zoning district in which such parking is permitted.

(B) *Combination of parking spaces.* The required parking space for a number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another for use during the same hours.

(Ord. passed 11-2-15)

§ 155.138 MINIMUM REQUIREMENTS.

The number of off-street parking spaces specified in the following tables shall be considered the minimum required. However, these minimum requirements may be exceeded if deemed necessary. Requirements based on the number of employees shall apply to the highest number of employees present during any regular work period or shift.

<i>Residential and Related Uses</i>	<i>Minimum Number of Required Off-Street Parking Spaces</i>
Boarding house, rooming house	1 space for each 2 rental units
Dwelling, one-family detached	2 spaces
Dwelling, two-family	2 spaces per dwelling unit
Dwellings, multi-family	1 ½ spaces for each one or two bedroom unit, plus 2 spaces for each three or more bedroom unit (see § 155.139).
Mobile homes on individual lots	2 spaces per mobile home

*Residential and Related Uses**Minimum Number of Required Off-Street Parking Spaces*

Mobile home parks	2 parking spaces per mobile home if provided on each mobile home plot, or 1 ½ spaces per mobile home plot if provided in off-street parking lots. No parking space shall be more than 100 feet distant from the dwelling unit it serves or on the opposite side of the street from the dwelling unit it serves.
Group homes	1 space per employee
Home occupations, except doctors' and dentists' offices	1 space in addition to residential requirements

*Nonresidential Uses**Minimum Number of Required Off-Street Parking Spaces*

Amusements, commercial	1 space for each 4 persons in designed capacity
Animal hospital, veterinarian	4 spaces for each doctor
Auditoriums, gymnasiums, stadiums, and the like	1 space for each 4 fixed seats, or 1 space for each 40 square feet of floor space where movable seats are used
Automobile accessories sales	1 space for each 200 square feet gross floor area
Automobile assembling, painting, upholstering, rebuilding, reconditioning, body and fender repairing	1 space for each 200 square feet gross floor area
Automobile laundry	15 spaces
Automobile laundry, self-service	2 waiting spaces for each bay, in addition to the bay space
Automobile sales	1 space for each 600 square feet gross floor area
Banks, savings and loans and similar financial institutions	1 space for each 200 square feet gross floor area used by the public, plus 1 space for each 600 square feet other gross floor area, plus waiting space for at least 4 cars, at each drive-in banking device
Building supply sales	1 space for each 600 square feet gross floor area

<i>Nonresidential Uses</i>	<i>Minimum Number of Required Off-Street Parking Spaces</i>
Building material storage, contractor's yards	2 spaces for each 3 employees
Churches	1 space for each 7 seats
Cleaners of carpets, rugs and the like	1 space for each 200 square feet gross floor area used by the public
Community centers, libraries, art galleries, museums	1 space for each 200 square feet gross floor area used by the public
Day-care centers and preschools	1 space for each employee
Drive-through establishments, dry cleaners, fast-food, beverages and the like	1 space for each 200 square feet gross floor area used by the public, plus waiting space for at least 4 cars at any drive-through window
Dry cleaning and pressing plants	2 spaces for each 3 employees
Electronic, internet, or sweepstakes gaming	1 space per 2 terminals
Fairs, circuses, carnivals, sideshows	1 space for each 600 square feet gross area
Food and beverage storage and distribution, food processing	2 spaces for each 3 employees
Funeral homes	1 space for each 4 seats in chapel (or parlor, if no chapel)
Golf, swimming and tennis clubs; indoor commercial recreation	1 space for each 4 persons in designed capacity
Greenhouses, commercial and plant nurseries	3 spaces, plus 1 space for each employee
Government buildings: town hall, police, fire & emergency services, post office and the like	1 space for each 200 square feet gross floor area used by the public, plus 1 space for each 600 square feet other gross floor area
Hospitals	1 space for each 2 beds, plus 1 space for each doctor and each nurse, plus 1 space for each 4 other employees
Hotels, motels	1 space for each rental unit, plus 1 space for each 2 employees
Laboratories, research facilities	1 space for each 200 square feet gross floor area

<i>Nonresidential Uses</i>	<i>Minimum Number of Required Off-Street Parking Spaces</i>
Lodges, clubs	1 space for each 4 persons in designed capacity
Medical, dental and paramedical offices and clinics	4 spaces for each doctor, plus 1 space for each other employees
Nursing homes, convalescent homes, homes for the aged	1 space for each 4 beds, plus 1 space for each doctor and each nurse, plus 1 space for each 4 other employees
Office and professional buildings	1 space for each 200 square feet gross floor area used by the public, plus 1 space for each 600 square feet other gross floor area
Philanthropic institutions	1 space for each 200 square feet gross floor area
Photographers studio	1 space for each 300 square feet gross floor area
Radio, television studio	1 space for each employee
Restaurants, cafes, night clubs and eating and drinking establishments	2 spaces for each 5 seating accommodations, plus 1 space for each 2 employees
Retail establishments, high volume, such as grocery stores, drug stores, and department stores	1 space for each 200 square feet gross floor area
Retail stores, low volume, such as furniture stores, machinery sales, mobile home sales and carpet stores	1 space for each 600 square feet gross floor area
Schools, elementary and junior-high	1 space for each employee
Schools, high schools	1 space for each employee, plus 3 spaces for each classroom
Schools, commercial, vocational, music, art, dancing	1 space for each employee, plus 1 space for each 4 persons in design capacity
Service establishments dealing infrequently with the public, such as repair or secretarial services	1 space for each 600 square feet gross floor area
Service establishments dealing frequently with the public, such as barber shops or beauty shops	1 space for each 200 square feet gross floor area

<i>Nonresidential Uses</i>	<i>Minimum Number of Required Off-Street Parking Spaces</i>
Service stations, no repair area	1 space per employee, plus off-street waiting space for at least 2 cars in each line
Stables, commercial	1 space for each 2 stalls
Theaters, indoor	1 space for each 4 seats
Tourist homes, bed and breakfasts	1 space for each room rented plus 1 space for each employee, plus 2 spaces for permanent occupants
Transportation terminals, freight	2 spaces for each 3 employees
Transportation terminals, passenger	1 space for each 200 square feet gross floor area
Warehouses	2 spaces for each 3 employees
Wholesale establishments, industrial and manufacturing uses	1 space for each 900 square feet gross floor area, or 1 space for each 2 employees, plus 1 space for each vehicle used to conduct such a use (whichever is greater)

(Ord. passed 11-2-15; Am. Ord. passed 1-7-19) Penalty, see § 155.999

§ 155.139 MULTI-FAMILY REQUIREMENTS.

The minimum number of off-street parking spaces required within multi-family developments shall be as follows:

(A) In all residential developments sponsored or developed by a public or nonprofit agency for restricted-income families or elderly persons: one parking space for each dwelling unit.

(B) In all other multi-family developments, the minimum number of off-street parking spaces shall be 1 ½ times the number of one- and two-bedroom units, plus 2 times the number of three-or-more bedroom dwelling units.

(C) No required parking space shall be more than 200 feet distant from the dwelling unit it serves.

(D) Adequate vehicular access shall be provided for garbage and trash pickup, parcel deliveries and maintenance and service vehicles.

(E) No parking or loading areas or vehicle maneuvering areas shall be located in a required front yard or in a required side yard adjacent to a street.

(F) All parking spaces, drives and vehicle maneuvering spaces shall be paved with a dustless all-weather material, such as asphalt or concrete, capable of carrying, without damage, the heaviest vehicle loads that can reasonably be anticipated on such surface.

(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.140 LIGHTING REQUIREMENTS FOR PARKING AND LOADING AREAS.

Access ways, walkways and parking and loading areas shall be lighted adequately by lighting fixtures which shall be so installed as to protect the street and neighboring properties from direct glare or hazardous interference of any kind.

(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.141 SAFETY BARRIER REQUIREMENTS.

Curbs, walls, fences or similar devices shall be located along the perimeter of parking lots, garages and storage areas, except at entrances and exits indicated in approved parking plans. Such barriers shall be so designed and located as to prevent parked vehicles from extending beyond property lines of parking lots and garages and to protect public rights-of-way and adjoining properties from the adverse effects of surface drainage.

(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.142 PARKING LOT LOCATION, DESIGN AND IMPROVEMENT STANDARDS.

(A) All off-street parking facilities including exits, entrances and maneuvering areas and parking areas shall:

- (1) Be graded;
- (2) Be permanently maintained by the owners;
- (3) Have access to a dedicated street or alley; and

(4) Have gravel or crushed rock access drives or lanes which are at least ten feet wide for single lane movement and 20 feet wide for double lane movement; all business, industrial, office and institutional uses shall have access drives paved with either asphalt or concrete.

(B) Off-street parking areas for more than ten vehicles shall be effectively screened, on each side which adjoins or faces premises situated in any residential or institutional district, by a suitable fence or hedge at least five feet high. Such fence or hedge shall be maintained in good condition.

(C) All parking lots that are used regularly at least five days per week shall be paved with asphalt or concrete up to the required paved driveway, except that this paving requirement shall not apply to parking lots used only by churches, private clubs or similar organizations using said parking facilities on an irregular schedule and parking lots where ten or less spaces are required. Parking lots not requiring paving shall be graded and surfaced with crushed stone or gravel or other approved suitable material to provide a surface which will help reduce dust and erosion.

(D) Parking may not be assigned to two uses, however, required parking spaces for any number of separate buildings or uses may be combined in one lot. The spaces required for one use may not be assigned to another use at the same time except that required parking for places of assembly may be assigned to parking spaces that are otherwise assigned to other uses, provided that the parking spaces are normally used at different times.

(E) All parking facilities shall be so designed that the required access to public streets shall be by forward motion of vehicles exiting the parking facility.

(F) A public alley may be accounted as part of the required maneuvering and access area of off-street parking facilities, but not as part of the parking spaces required.

(G) All parking areas or spaces, access-drives, travel-ways, loading areas, and vehicle-use areas within the B-1.2 Central Business District II must be paved, marked, signed, surfaced, and maintained with asphalt, concrete, or similar materials so as to provide a durable and dustless surface that will accommodate intended traffic volumes and weights. Alternative paving materials can be used in lieu of asphalt or concrete if such material(s) will promote a reduction in stormwater runoff. The alternative material must exhibit equal wear resistance and load bearings as asphalt and concrete. Alternative paving methods must be approved by the Town Engineer and the Haw River Town Council.

(Ord. passed 11-2-15; Am. Ord. passed 6-18-18) Penalty, see § 155.999

§ 155.143 OFF-STREET LOADING REQUIREMENTS.

The number of off-street loading berths required by this section shall be considered as the absolute minimum, and the developer shall evaluate his or her own needs to determine if they are greater than the minimum specified by this section. For purposes of this section, an off-street loading berth shall have minimum plan dimensions of 12 feet by 40 feet and 14 feet overhead clearance with adequate means for entrance and exits. A loading space requirement may be modified or waived by the Board of Adjustment on application in the case of a bank, theater, assembly hall or other building having similar limited loading space requirements.

Number of Required Off-Street Loading Berths

<i>Square Feet of Gross Floor Area</i>			<i>Required Number of Berths</i>
0	—	25,000	1
25,000	—	40,000	2
40,000	—	100,000	3
100,000	—	160,000	4
160,000	—	240,000	5
240,000	—	320,000	6
320,000	—	400,000	7
Each 90,000 above 400,000			1

(Ord. passed 11-2-15) Penalty, see § 155.999

SIGN REGULATIONS**§ 155.155 INTENT.**

This section is intended to regulate and control signs and their placement throughout the Town of Haw River for the following purposes:

(A) To provide a pleasing overall environmental setting and good community appearance, which is deemed vital to the continued economic attractiveness of the town;

(B) To create a more productive, enterprising, professional business atmosphere;

(C) To allow signs appropriate to the planned character and development of each zoning district;

(D) To ensure that permitted signs do not become a hazard or nuisance;

(E) To promote traffic safety;

(F) To prevent business and advertising signs from conflicting with public safety signs; and

(G) To protect and enhance the value of properties.

(Ord. passed 11-2-15)

§ 155.156 APPLICABILITY.

(A) With the exception of those signs authorized in § 155.161 of this chapter, it shall be unlawful to construct, enlarge, modify, move or replace any sign or cause the same to be done, without first obtaining a zoning permit for such sign from the town or its designee.

(B) Notwithstanding the above, changing or replacing the permanent copy on an existing lawful sign shall not require a permit, provided the copy change does not change the nature of the sign so as to render it in violation of this chapter.

(Ord. passed 11-2-15)

§ 155.157 GENERAL REGULATIONS.

The following regulations shall apply to all signs.

(A) *Construction standards.*

(1) All signs shall be constructed and installed in accordance with the applicable provisions of the North Carolina State Building Code.

(2) All temporary signs shall be constructed of materials and printed on by inks and paints capable of withstanding normal weather conditions.

(3) All signs, except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this chapter, shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

(B) *Electrical standards.* All illuminated signs shall be installed in accordance with the applicable provisions of the North Carolina State Electrical Code and all illuminated detached signs shall be illuminated by an underground electrical source.

(C) *Maintenance of signs.* All signs shall be maintained in good structural and aesthetic condition. Deficiencies such as chipped paint, broken plastic, missing letters and exposed light bulbs shall be evidence of a lack of maintenance.

(D) *Obstructions prohibited.* No sign shall be placed so as to obstruct the clear sight triangle at a street intersection nor shall any sign obstruct the view of motorists entering or leaving an off-street parking area.

(E) *Relation to other building elements.*

(1) Signs shall relate in their placement and size to other building elements without obscuring building elements such as windows, cornices, or decorative details, except that signs may be placed on the inside of windows.

(2) Sign material, style and color shall complement the building façade in terms of design, scale, color, and materials.

(3) Individual shop signs in a single storefront shall relate to each other in terms of design, size, color, placement on the building, and lettering style.

(4) Signs placed on the inside of the window areas shall conceal no more than 25% of the area of the window on which the signs are located.

(F) *Sign lighting.*

(1) Neon, argon and similar lighting fixtures shall not be used anywhere on the exterior of a building; however, such signs may be mounted on the inside of store windows.

(2) Signs shall be lighted with indirect light sources (e.g. backlighting); knockout signs are encouraged. Ground mounted floodlights may also be used if the light is directed only on the sign and not onto adjacent properties or roadways and the light fixtures are fully shielded from view through the use of landscaping.

(G) *Sign height computation.*

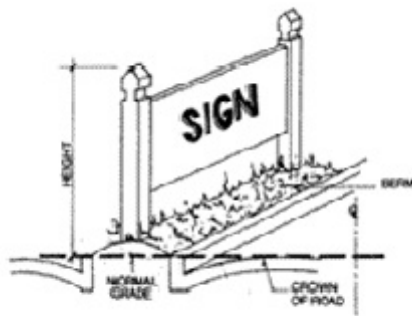
(1) Sign height shall be computed as the lower of:

(a) Existing grade prior to construction; or

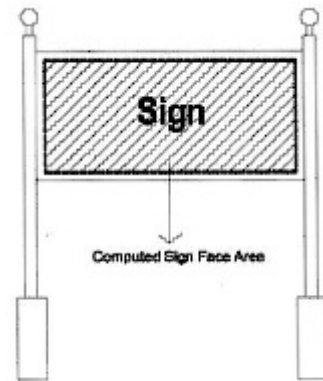
(b) The newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.

(2) The calculation of the height of any sign placed upon a berm or mound shall include the height of the berm or mound.

(H) *Sign area computation.* The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.



Sign Height Computation



Area Computation of Individual Signs

(I) *Sign area computation for multi-faced signs.* The sign area for a sign with multiple faces shall be computed by adding together the area of all sign faces visible from any one point. When a sign is composed of two or more sign faces, only one of which can be viewed from any one point, and when such sign faces are part of the same structure, the sign area shall be computed by the measurement of one of the faces.

(J) *Forfeiture of illegal signs placed on or over public property.* Any sign installed or placed on or over public property, except in conformance with the requirements of this section, shall be forfeited to the public and be subject to confiscation and disposal. In addition to other remedies provided by this section and the Town Code of Ordinances, the town shall have the right to recover from the sign owner and/or installer the full costs of removal and disposal of such sign.

(Ord. passed 11-2-15)

§ 155.158 SIGN PLACEMENT.

The following provisions shall apply to the placement of all signs in all districts.

(A) *In General.*

(1) Signs must be located entirely on private property, unless otherwise permitted by this section.

(2) No sign may be located so that it blocks the sight triangle at any driveway or public street intersection.

(B) *Wall signs.* Wall mounted signs shall not extend above the eave or parapet of any building.

(C) Freestanding signs.

(1) All parts of freestanding signs must be set back a minimum of five feet from the property line.

(2) No freestanding sign shall be located closer than 15 feet from another structure on the same zoning lot.

(3) No portion of a freestanding sign, including projections, may extend into or over an existing public right-of-way, unless expressly permitted by this subchapter.

(D) Temporary signs.

(1) Temporary signs shall be located on private property unless expressly permitted by this section to be posted on public property.

(2) All temporary signs shall be anchored, attached, or otherwise affixed to a structure or support so that the sign cannot be easily dislodged by strong winds or heavy rains.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.159 TABLE OF PERMITTED USES.

Signs shall be permitted and prohibited as follows:

Type	Zoning District	Maximum Number	Maximum Area	Maximum Height	Minimum Height
Free-Standing (Developments with Multi-Use and/or Structures)	I-1, I-2, B1, B2, and I&C	1 per street frontage	I and B: 120 ft ² I&C: 80 ft ²	I and B: 10 feet I&C: 8 feet	N/A
Free-Standing (Monument)	I-1, I-2, B1, B2, and I&C	1 per street frontage	I and B: 100 ft ² (B: Downtown Overlay 20 ft ²) I&C: 60 ft ²	6 feet	N/A
Free-Standing (Pole or Pylon)	I-1, I-2, B1, & B2	1 per street frontage	80 ft ²	20 feet	N/A
Marquee	I-1, I-2, B1, B2, and I&C	1 per entrance	30 ft ²	N/A	8 feet above ground or sidewalk

Type	Zoning District	Maximum Number	Maximum Area	Maximum Height	Minimum Height
Projecting	B3	1 per street frontage or 1 per use in case of multi-use	8 ft ²	Signs cannot extend above height of building wall	8 feet above ground or sidewalk
Subdivision Identification	R-18, R-12, RA-7, & R-G	2, one for each intersection with a major street	16 ft ²	6 feet	N/A
Suspended	B3	1 per street frontage or 1 per use in case of multi-use	8 ft ²	Signs cannot extend above height of building wall	8 feet above ground or sidewalk
Wall	I-1, I-2, B1, B2, B3, and I&C	N/A	5% of the area of the wall area on which they are located	Signs cannot extend above height of building wall	N/A

(Ord. passed 11-2-15)

§ 155.160 PERMANENT SIGNS LIMITED.

(A) Notwithstanding §155.159 and in addition thereto, the following permanent signs shall be permitted without a zoning permit.

(1) Occupant and house number signs not exceeding one square foot in area and bearing only property numbers, post office box numbers, names of occupants or other identification not having commercial connotation.

(2) Historical markers, regulatory signs, public interest signs, and warning signs erected and maintained by the town or state or an agent of such.

(3) On-premises directional signs not exceeding four feet in height nor four square feet in area.

(4) Identification signs not exceeding two square feet in area nor two feet in height.

(5) Temporary real estate signs advertising a specific property for sale, lease, rent or development, located on said property, provided that such signs shall not exceed four square feet in area nor be illuminated. When property fronts on more than one street, one sign shall be allowed on each street frontage.

(6) Permanent subdivision identification signs, not exceeding 66 square feet in area.

(7) Incidental signs.

(8) Flags on permanent poles.

(9) Church or non-profit organization bulletin boards and identification signs, not exceeding 18 square feet for the purpose of displaying the name of any institution permitted in the district or other related information. One per each street front plus one per each building on premises. Such signs shall be set back at least 20 feet from any street right-of-way and may be indirectly illuminated. All signs must be motionless.

(10) Signs (not to exceed two per lot) advertising agricultural products produced on the premises not exceeding 16 square feet in area and provided such are not illuminated.

(11) Signs identifying home occupations or offices located in the residence of the practitioner. One per lot not exceeding three square feet in area which must be mounted flat against a wall or door or hung from a mailbox or lamp post. No such sign may be illuminated in a residential district.

(12) Any sign not legible or easily noticeable from public property or a public right-of-way and obviously not intended to attract the attention of the public.

(13) Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance, that are intended to protect the public from hazards on the property. Such signs may be illuminated without a permit.

(14) Traffic control signs on private property, the face of which meets Department of Transportation standards and which contain no commercial message of any kind.

(15) Electronic changeable readerboards. Electronic changeable readerboards may be allowed on part of a free-standing sign provided the sign is included in the overall area calculations for that sign and complies with the following:

(a) The minimum time in between message changes shall be ten seconds.

(b) No animation shall be allowed

(c) The electronic changeable readerboard shall not exceed 20% of the total area of the sign face.

(d) The sign shall in no way flash, blink, rotate, or use lights of varying intensities that may distract driver.

(e) The light emitted from such signs shall not exceed 5,000 nits during the day and 500 nits during nighttime hours.

(B) Notwithstanding § 155.159 and in addition thereto, the following permanent signs shall be permitted upon the issuance of a valid zoning permit: Any sign not expressly listed as permitted without a permit shall require the issuance of a valid zoning permit prior to installation.
(Ord. passed 11-2-15)

§ 155.161 TEMPORARY SIGNS LIMITED.

(A) *Temporary signs permitted without a permit.* The following temporary signs are permitted without a zoning permit in all zoning districts, but shall be in conformance with all other requirements of this chapter:

(1) Campaign or election signs shall be permitted provided that:

- (a) Individual signs shall not exceed 16 square feet in area or six feet in height;
- (b) All signs shall be removed within two days after the election for which they were made; and
- (c) No signs shall be permitted in the public right-of-way.

(2) Real estate signs, excluding temporary development signs provided that:

- (a) Signs advertising all residential lots, buildings, units, or spaces for sale or for lease shall not exceed six square feet in area or four feet in height;
- (b) Signs advertising all non-residential lots, buildings, units, or spaces for sale or for lease shall not exceed a sign face area of 32 square feet or exceed a height of six feet;
- (c) Only one sign per street front of the advertised property shall be erected;
- (d) Signs shall not be illuminated; and
- (e) Signs shall be removed within seven days after the sale is closed or rent or lease transaction finalized.

(3) Construction signs are permitted provided that:

- (a) Signs located on residential lots, excluding multi-family sites, shall not exceed six square feet in area. The maximum height of such signs shall be six feet;

(b) Signs for all multi-family development sites and nonresidential uses shall not exceed a sign face area of 32 square feet or a height of six feet;

(c) Signs are confined to the site of construction;

(d) Only one sign per street front of the property under construction shall be erected;

(e) Signs shall not be illuminated; and

(f) Signs shall be removed within seven days after the completion of the project.

(4) Temporary farm products signs are permitted provided that:

(a) Signs are located on the premises where the products are sold;

(b) Signs advertise products produced on-site only;

(c) Signs shall not exceed 24 square feet in area or five feet in height;

(d) Only one sign shall be erected; and

(e) Signs shall be removed within seven days of the termination of sale activities.

(5) Temporary special event signs or banners for religious, charitable, civic, fraternal, or similar organizations, are permitted provided that:

(a) Signs shall not exceed 32 square feet in area or five feet in height; and

(b) Signs shall be erected no sooner than 14 days before and removed seven days after the event.

(6) Holiday lights and decorations;

(7) Any sign not legible or easily noticeable from public property or a public right-of-way and obviously not intended to attract the attention of the public;

(8) Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance; and

(9) Yard sale signs. One on-premise and four off-premise signs per yard sale provided that no sign exceed four square feet and are removed within 24 hours after the sale. Signs shall not be placed on power poles and/or street signs.

(B) *Temporary signs requiring a permit.* Temporary signs permitted upon issuance of a valid zoning permit shall be limited as follows:

(1) Temporary banners in commercial districts, provided that:

(a) Only one banner per establishment shall be allowed at a time;

(b) All banners shall be attached in total to a building wall or permanent canopy extending from a building;

(c) No paper banners shall be allowed;

(d) Banners shall be erected for a period not to exceed two weeks;

(e) No more than six such signs per establishment shall be erected within a calendar year;
and

(f) No banner shall extend above the second occupiable floor level of a building.

(2) Temporary off-premise signs or banners for special community events open to the general public and sponsored by non-commercial civic, charitable, community, or similar organizations, provided that:

(a) Temporary signs shall be located outside of the public right-of-way or at least 11 feet from the edge of any public street if the right-of-way cannot be determined;

(b) Every temporary off-premise sign or banner shall be separated by a distance of 400 feet from any other such temporary off-premise sign on the same side of a street, and by a distance of 200 feet from any other sign on the opposite side of a street;

(c) Nothing in this provision shall be construed to authorize the posting of such signs or banners upon trees, utility poles, traffic control signs, lights or devices in any place or manner prohibited by the provisions herein, nor on private property without written consent of the owner; and

(d) Any temporary sign not expressly permitted without a permit.
(Ord. passed 11-2-15)

§ 155.162 PROHIBITED SIGNS.

Notwithstanding § 155.159 and in addition thereto, the following signs, both permanent and temporary, are prohibited in all zoning districts:

(A) Signs extending into the public right-of-way other than those expressly permitted by this subchapter or otherwise approved by the Town Council if placed along public streets;

(B) Flashing, fluttering, swinging, wind-activated, rotating, animated signs and other digital or electronic message boards, excluding flashing time and/or temperature signs that are not otherwise permitted in this subchapter. Provided, however, traffic signals, railroad crossing signals and other official warning or regulatory signs and electronically controlled message centers or reader boards where different copy changes, involving alphabetical or numerical characters only, present messages of a public service or commercial nature shall not be considered flashing signs, as long as such signs comply with the provisions of this chapter;

(C) Any sign which obstructs the view of motorists, pedestrians, or cyclists using any street, sidewalk, bike path, or driveway, or which obstructs the approach to any street intersection or railroad crossing, or which interferes with the effectiveness of any traffic sign, device, or signal;

(D) Illuminated or highly reflective signs which hamper the vision of motorists or cyclists;

(E) Any sign that resembles traffic signals, traffic signs, or emergency vehicle lights and any other sign not erected by a public authority which may be erroneously construed as governmental signs or emergency warning signs;

(F) Beacons, pennants, and strings of lights not permanently mounted to a rigid background, except those permitted as temporary signs;

(G) Any sign that interferes with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder, or opening intended as a means of ingress or egress or providing light or air except for permitted window signs;

(H) Any sign placed on any curb, sidewalk, post, pole, hydrant, bridge, tree, or other structure or surface located on, over, or across any public street right-of-way or property unless expressly authorized by this subchapter or the Town Council;

(I) Off-premises signs advertising adult establishments;

(J) Off-premises signs on parcels of land that are zoned residential, used primarily for residential purposes, or which do not include an active permitted use as established by this subchapter;

(K) Inflatable devices or balloons;

(L) High intensity searchlights;

(M) Any object displayed in a manner which is intended to attract attention to a site, product, or event; or

(N) Any sign not expressly permitted by this subchapter.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.163 ENFORCEMENT OF REGULATIONS.

Any sign, structure, or other form of advertising defined as a sign herein that is erected or placed anywhere in the Town of Haw River after adoption of this chapter that is not in compliance with the provisions of this section shall be subject to the enforcement provisions outlined in the town's enforcement and violations ordinance (§§ 157.53 through 157.55 and § 157.99).
(Ord. passed 11-2-15)

INDUSTRIAL DISTRICT PERFORMANCE STANDARDS

§ 155.180 PERFORMANCE STANDARDS.

Within the I-1 and I-2 zoning districts, all uses shall conform with the following performance standards:

(A) *Dust, dirt, fly ash or other air pollutants.* There shall be no emission of dust, dirt, fly ash, gases, fumes, vapors or other air pollutants into the atmosphere that could cause damage to the public health, or to animals, to vegetation or to other forms of property.

(B) *Electrical interference.* There shall be no electrical disturbances affecting the operation of any equipment other than that of the creator of such disturbances.

(C) *Heat and glare.* There shall be no heat or glare perceptible to human senses at the property line of any use creating heat or glare.

(D) *Landscaping.* All front yards and side yards shall be suitably landscaped.

(E) *Enclosure.* All processing shall be within a building.

(F) *Liquid or solid waste.* There shall be no discharge of any liquid or solid waste into any stream except as authorized by the State of North Carolina.

(G) *Noise.* The sound-pressure level of sound radiated from an establishment, measured at the lot line, shall not exceed the values in any octave band of frequency that are specified in the table below. The sound-pressure level shall be measured with a sound level meter and an associated octave band analyzer conforming to standards prescribed by the American Standards Association:

Frequency Band

Cycles per Second	Decibels
20 - 75	69
75 - 150	57
150 - 300	52
300 - 600	46
600 - 1,200	42
1,200 - 2,400	37
2,400 - 4,800	33
4,800 - 10,000	30

(H) *Odor*. There shall be no objectionable odors perceptible to the human senses at or beyond the property line of any use that may create odors.

(I) *Radioactivity*. There shall be no radioactive emission that would be dangerous to health.

(J) *Smoke*. There shall be no emission into the atmosphere of smoke from any operation of a shade darker than #1 on the Ringleman Smoke Chart as published by the U.S. Bureau of Mines, except that smoke of a shade not darker than #3 on said chart may be omitted for not more than two minutes in any 30-minute period.

(K) *Traffic*. There shall be no industrial vehicular traffic on any minor residential street.

(L) *Vibration*. There shall be no vibration perceptible to human senses at the property line of any use that may create vibration.

(Ord. passed 11-2-15) Penalty, see § 155.999

ACCESSORY BUILDING REQUIREMENTS

§ 155.190 TABLE OF PERMITTED ACCESSORY BUILDINGS.

Accessory buildings permitted within each zoning district are indicated by an “X.” Notes “A” through “I” present the conditions under which these accessory buildings are permitted (see § 155.191).

[Table begins on next page]

Table of Permitted Accessory Buildings

<i>Permitted Accessory Buildings</i>	<i>R-18</i>	<i>R-12</i>	<i>R-7</i>	<i>R-G</i>	<i>I&C</i>	<i>B-1</i>	<i>B-2</i>	<i>B-3</i>	<i>I-1</i>	<i>I-2</i>	<i>Required Conditions</i>
One detached private garage	x	x	x	x							(A)(E)(H)
One private stable	x										(B)
Greenhouses and truck gardens	x	x	x	x							(C)(E)(H)
One private swimming pool	x	x	x	x							(D)(E)(G) (H)(I)
Multiple private detached garages				x							(A)(F)
Coin laundry				x							(A)(F)(G) (I)(J)
Rental office				x							(A)(F)(G) (I)(J)
Recreation center				x							(A)(F)(G) (I)(J)
Equipment storage building				x							(A)(F)(I)
Well house and package sewage treatment plant				x							(I)(K)

(Ord. passed 11-2-15)

§ 155.191 NOTES TO TABLE.

(A) Where located as required in §§ 155.120 through 155.124.

(B) Where located on lots at least 20,000 square feet in area, provided the stable is located at least 60 feet from the front property line and not less than ten feet from any other property line.

(C) Where incidental to the residential uses and conducted on a noncommercial basis, provided that no greenhouse heating plant shall be located within 60 feet of any other property line.

(D) Where located in side or rear yards, provided the pool (deck or apron not included) shall be considered an accessory use and shall conform to the established side and rear yard requirements. Lighting fixtures shall be so arranged and shaded such that the light source is not visible from adjoining properties. A protective fence no less than six feet in height shall be erected to enclose all swimming pools and a suitable locking device shall be provided on all exterior gates as a safety measure.

(E) On lots occupied by single-family or two-family dwellings.

(F) On lots occupied by multi-family dwellings, provided their exteriors harmonize with the multi-family structures.

(G) To serve residents of the multi-family development only, provided there is no intrusion into minimum yard requirements.

(H) Where located on a lot occupied by a single manufactured dwelling unit (not in a mobile home park).

(I) Where located in a mobile home park, to serve the residents of the mobile home park only.

(J) Shall not be located within 50 feet of any manufactured dwelling and shall not intrude into minimum yard requirements.

(K) Where located in accordance with all applicable state and county health regulations.
(Ord. passed 11-2-15)

§ 155.192 LOCATIONAL REQUIREMENTS FOR PERMITTED ACCESSORY BUILDINGS.

(A) No encroachment in any required front yard setback shall be permitted.

(B) If the gross floor area of an accessory building is equal to or less than 300 square feet, the structure or building may be located three feet from a side or rear lot line. If the gross floor area is greater than 300 square feet, the structure or building may be located 10 feet from a side or rear lot line.

(C) Within all residential zoning districts, all accessory buildings and structures must be located behind the front building line of the principal building(s).

(D) Within nonresidential zoning districts, accessory structures and buildings may be in front of the front building line of the principal building(s), but must meet the same front yard setback requirements as the principal building(s)

(E) Accessory buildings in the rear yard of a corner lot abutting the side yard of a residentially zoned lot and with a gross floor area greater than 300 square feet shall be located at least as far from the common lot line as the distance specified for the side yard setback of the adjoining residential lot.

(F) Where the side yard of a lot abuts a street and the adjoining lot fronts on that street, no accessory building shall be located in that portion of the rear yard lying closer to that street than the distance specified by this chapter as the minimum side yard width.

(Ord. passed 11-2-15; Am. Ord. passed 12-3-18) Penalty, see § 155.999

NONCONFORMANCES**§ 155.205 PURPOSE AND INTENT.**

If, within the districts established by this chapter, or by amendments that may later be adopted, there exist lots, structures or uses of land and structures which were lawful before this chapter was passed or amended, but which would be prohibited under the terms of this chapter, it is the intent of this chapter to allow these nonconformances to continue until they are removed (except signs, which are provided for in §§ 155.155 through 155.166). However, such nonconformances are declared by this chapter to be incompatible with permitted uses in the districts in which they are located, and this chapter does not encourage their continuance. Nonconformances shall not be enlarged upon, expanded or extended, or used as grounds for adding other structures or uses prohibited elsewhere in the same district.
(Ord. passed 11-2-15)

§ 155.206 NONCONFORMING LOTS OF RECORD.

(A) In any district a permitted use may be constructed by right on any lot made nonconforming by this chapter as long as approval is granted by the Zoning Enforcement Officer and the structure and customary accessory buildings do not encroach into required front, rear and side yard setbacks. If a proposed building on a nonconforming lot is approved by the Zoning Enforcement Officer, but would encroach into required setbacks, a variance shall be sought from the Board of Adjustment.

(B) Wherever two or more nonconforming lots in single ownership with continuous frontage exist, permitted structures may be erected on each lot if all setback requirements can be met. If all setbacks cannot be met, the lands involved shall be considered to be an individual parcel for the purposes of this chapter. No portion of the parcel shall be used or sold which does not meet the dimensional requirements of this chapter.

(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.207 NONCONFORMING USES OF OPEN LAND.

This category of nonconformance consists of lots used for storage yards, used car lots, auto wrecking, junk yards, golf driving ranges and similar open uses where the only buildings on the lot are incidental and accessory to the open use of the lot and where such use of the land is not permitted to be established hereafter, under this chapter, in the district in which it is located.

(A) When a nonconforming open use of land is changed to a conforming use, it shall not thereafter be used for any nonconforming use.

(B) Nonconforming open uses of land may be changed to conforming uses.

(C) A nonconforming open use of land shall not be enlarged or extended to cover more land than was occupied by that use when it became nonconforming.

(D) When any nonconforming open use of land is discontinued for a period of 90 days, any future use of the land shall be limited to those uses permitted in that district under the provisions of this chapter. Vacancy and/or nonuse of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

(E) All nonconforming open uses of land involving only minor structures, such as automobile wrecking yards, billboards or outdoor advertisement signs, and junk yards, shall be discontinued within two years from the date of adoption of this chapter.

(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.208 NONCONFORMING USES OF BUILDINGS AND STRUCTURES.

This category consists of structures used, at the time of passage of this chapter, for purposes not permitted in the district in which they are located.

(A) A nonconforming use of a structure may be changed to a conforming use.

(B) A nonconforming use of a structure shall not be changed to another nonconforming use, unless the proposed nonconforming use is deemed by the Board of Adjustment, after public notice and hearing, to be less harmful to surrounding uses and more in character with uses permitted in the district than the existing nonconforming use.

(C) When a nonconforming use of a structure is changed to a conforming use, it shall not thereafter be used for any nonconforming use.

(D) Normal maintenance and repair of a building occupied by a nonconforming use is permitted and encouraged provided it does not extend the nonconforming use.

(E) A nonconforming use of a structure shall not be extended or enlarged except into portions of the structure which, at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use. No structural alterations shall be made in any structure occupied by a nonconforming use except those required by law or ordinance or ordered by the Building Inspector to secure the safety of the structure.

(F) When any nonconforming use of a structure is discontinued for a continuous period of 180 days, any future use of the structure shall be limited to those uses permitted in that district under the provisions of this chapter. Vacancy and/or non-use of the building, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

(G) In the case of a residence (single-family dwelling, duplex, Class A manufactured house) that is a nonconforming use in a commercial or industrial zone, such residence may be repaired, rebuilt or added to as long as the dimensional requirements of the district are met. Minor variances in setbacks due to lot size may be presented to the Board of Adjustment for consideration. This policy is adopted in the interest of maintaining an adequate stock of housing in Haw River.

(Ord. passed 11-2-15)

§ 155.209 NONCONFORMING STRUCTURES.

When a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(A) No structure may be enlarged or altered in a way which increases its nonconformity.

(B) Normal maintenance and repair of a nonconforming structure is permitted and encouraged provided it does not extend the nonconformity.

(C) Should such a structure be moved for any reason for any distance whatever, it shall hereafter conform to the regulations for the district in which it is located after it is moved.

(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.210 REPAIRS AND MAINTENANCE.

(A) Buildings or structures other than single-family houses that are destroyed by any means to an extent of more than 60% of replacement cost or bulk, exclusive of foundations and land value, shall not be reconstructed except in conformity with the provisions of this chapter. Nonconforming single-family houses that are damaged or destroyed may be rebuilt on the same lot as long as the amount of nonconformity is not increased.

(B) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any county official charged with protecting the public safety, upon order of such official.

(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.211 NONCONFORMANCES CREATED BY CHANGES IN ZONING BOUNDARIES OR REGULATIONS.

Any nonconformances created by a change in district boundaries or ordinance regulations after the date of passage of this chapter shall also be governed by the provisions of this subchapter.

(Ord. passed 11-2-15)

§ 155.212 SPECIAL USES ARE CONFORMING.

Any use for which a special use permit is issued, as provided in this chapter, shall without further action be deemed a conforming use unless otherwise provided in this chapter or otherwise provided as a condition of issuance of such permit. Any extension by or addition to such use shall be subject to all requirements of this chapter.

(Ord. passed 11-2-15)

WATERSHED REGULATIONS**§ 155.225 INTENT, AUTHORITY AND ENACTMENT OF WATERSHED REGULATIONS.**

(A) *Intent.* The intent of this subchapter is to protect surface water supplies whose watersheds are located wholly or partially within the jurisdiction of Haw River.

(B) *Authority and enactment.* Pursuant to authority given to municipalities in G.S. Chapter 160A, Article 19, Planning and Regulation of Development, and G.S. § 143-214.5, Water Supply and Watershed Protection, the Town Council does hereby ordain and enact into law the following sections as the Watershed Protection Ordinance of Haw River.

(Ord. passed 11-2-15)

§ 155.226 JURISDICTION.

(A) The provisions of this subchapter shall apply in those areas within the corporate limits and the extraterritorial jurisdiction of Haw River designated as public water supply watersheds by the N.C. Environmental Management Commission and shall be defined and established on the map entitled, “Watershed Protection Map of Haw River, North Carolina” (“the Watershed Map”), which is adopted simultaneously herewith. The Watershed Map and all explanatory matter contained thereon accompanies and is hereby made a part of this subchapter. This ordinance shall be permanently kept on file in the office of the Zoning Enforcement Officer.

(B) The following public water supply watersheds designated by the N.C. Environmental Management Commission and the Haw River Town Council within the town planning and zoning jurisdiction:

<i>Watershed</i>	<i>Classification</i>	<i>River Basin</i>
Back Creek	WS-II	Cape Fear

(Ord. passed 11-2-15)

§ 155.227 DEFINITIONS.

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

AGRICULTURAL USE. The use of waters for stock watering, irrigation and other farm purposes.

ANIMAL UNIT. A unit of measurement developed by the U.S. Environmental Protection Agency that is used to compare different types of animal operations.

BEST MANAGEMENT PRACTICES (BMP). A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

BUFFER. An area of natural or planted vegetation through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The ***BUFFER*** is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

BUILDING. Any structure having a roof supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

BUILT-UPON AREA. That portion of a development project that is covered by impervious or partially impervious cover including, but not limited to, buildings, gravel roads, and gravel areas such as roads, parking lots, and paths, recreation facilities (for example tennis courts). Built upon area does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

CLUSTER DEVELOPMENT. The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes nonresidential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land.

COMPOSTING FACILITY. A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations is deposited.

CRITICAL AREA. The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The ***CRITICAL AREA*** is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream

from the intake located directly in the stream or river (run-of-the-river) or the ridge line of the watershed (whichever comes first). Since WS-I watersheds are essentially undeveloped, establishment of a **CRITICAL AREA** is not required. Local governments may extend the **CRITICAL AREA** as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the **CRITICAL AREA** if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

CUSTOMARY HOME OCCUPATIONS. Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Provided further that no mechanical equipment is installed or used except as is normally used for domestic or professional purposes, and that not over 25 % of the total floor space of any structure is used for the occupation. No home occupation shall be conducted in any accessory building except for the storage and service of a vehicle that is driven off site, such as a service repair truck, delivery truck and the like.

DEVELOPMENT. Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil. Development falls into two categories: low-density and high-density. Low density is typified by the average single-family house on 1-2 acres.

DISCHARGING LANDFILL. A facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

DWELLING UNIT. A building, or portion thereof, providing complete and permanent living facilities for one family.

EXISTING DEVELOPMENT. Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this chapter based on at least one of the following criteria:

(1) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project.

(2) Having an outstanding valid building permit as authorized by the G.S. § 153A-344.1 and G.S. § 160A-385.1.

(3) Having expended substantial resources (time, labor, money) and having an approved site specific or phased development plan as authorized by the G.S. § 153A-344.1 and G.S. § 160A-385.1.

EXISTING LOT (LOT OF RECORD). A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this subchapter, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this subchapter.

FAMILY. One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage or adoption, no such family shall contain over five persons, but further provided that domestic servants employed or living on the premises may be housed on the premises without being counted as a ***FAMILY*** or ***FAMILIES***.

HAZARDOUS MATERIAL. Any substance listed as such in: SARA section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

INDUSTRIAL DEVELOPMENT. Any nonresidential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

LANDFILL. A facility for the disposal of solid waste on land in a sanitary manner in accordance with G.S. Chapter 130A, Article 9. For the purpose of this subchapter, this term does not include composting facilities.

LOT. A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.

NONRESIDENTIAL DEVELOPMENT. All development other than residential development, agriculture and silviculture.

PLAT. A map or plan of a parcel of land which is to be or has been subdivided.

RESIDENTIAL DEVELOPMENT. Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages and the like and their associated outbuildings such as garages, storage buildings, gazebos and the like and customary home occupations.

SINGLE-FAMILY RESIDENTIAL. Any development where:

- (1) No building contains more than one dwelling unit,
- (2) Every dwelling unit is on a separate lot, and
- (3) Where no lot contains more than one dwelling unit.

STREET (ROAD). A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

STRUCTURE. Anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having permanent location on the land.

SUBDIVIDER. Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

SUBDIVISION. All divisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all division of land involving the dedication of a new street or a change in existing streets, but the following shall not be included within this definition nor be subject to the regulations authorized by this chapter:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this chapter;
- (2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets;
- (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this chapter; or
- (5) The division of a tract into plots or lots used as a cemetery.

TOXIC SUBSTANCE. Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring or other adverse health effects.

VARIANCE. A permission to develop or use property granted by the Board of Adjustment relaxing or waiving a water supply watershed management requirement adopted by the Environmental Management Commission that is incorporated into this chapter.

(1) **MAJOR VARIANCE.** A variance from the minimum statewide watershed protection rules that results in any one or more of the following:

- (a) The complete waiver of a management requirement;
- (b) The relaxation, by a factor of more than 10%, of any management standard under the low density option; or

(c) The relaxation, by a factor of more than 10% , of any management requirement under the high density option.

(2) **MINOR VARIANCE.** A variance from the minimum statewide watershed protection rules that results in a relaxation by a factor of up to 5% of any buffer, density or built-upon area requirement under the high density option; or that results in a relaxation by a factor of up to 10% of any management requirement under the low density option.

WATER DEPENDENT STRUCTURE. Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not **WATER DEPENDENT STRUCTURES.**

WATERSHED. The entire land area contributing surface drainage to a specific point (for example the water supply intake.)

WATERSHED ADMINISTRATOR. The Haw River Zoning Enforcement Officer who is responsible for administration and enforcement of this chapter.
(Ord. passed 10-7-13; Ord. passed 11-2-15)

§ 155.228 INTERPRETATION OF WORDS AND TERMS.

For the purposes of this chapter, certain words and terms shall be interpreted as follows:

(A) Words in the present tense include the future tense.

(B) Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

(C) The word “person” includes a firm, association, corporation, trust and company as well as an individual.

(D) The word “structure” shall include the word “building.”

(E) The word “lot” shall include the words “plot,” “parcel” or “tract.”

(F) The word “shall” is always mandatory and not merely directory.

(G) The word “will” is always mandatory and not merely directory.
(Ord. passed 11-2-15)

§ 155.229 EXCEPTIONS TO APPLICABILITY.

(A) Nothing contained in this subchapter shall repeal, modify or amend any federal or state law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; however, the adoption of this subchapter shall and does amend any and all ordinances, resolutions and regulations in effect in the town at the time of the adoption of this subchapter that may be construed to impair or reduce the effectiveness of this subchapter or to conflict with any of its provisions.

(B) It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

(C) Existing development, as defined in § 155.227, is not subject to the requirements of this subchapter. Expansions to structures classified as existing development must meet the requirements of this subchapter; however, the built-upon area of the existing development is not required to be included in the density calculations.

(D) A pre-existing lot owned by an individual prior to the effective date of this subchapter, regardless of whether or not a vested right has been established, may be developed for single-family residential purposes without being subject to the restrictions of this subchapter. However, this exemption is not applicable to multiple contiguous lots under single ownership. See § 155.238(A)(3) regarding the recombination of existing lots.

(Ord. passed 11-2-15)

§ 155.230 SUBDIVISION REGULATIONS.

(A) No subdivision plat of land within the public water supply watershed shall be filed or recorded by the Register of Deeds of Alamance County until it has been approved in accordance with the provisions of this subchapter. Likewise, the Clerk of Superior Court shall not order or direct the recording of a plat if the recording of such plat would be in conflict with this subchapter.

(B) All applications to subdivide land in a designated water supply watershed shall comply with all Haw River Subdivision Ordinance application requirements and shall include five copies of the proposed site plan on sheets at least 18" x 24" at a minimum scale of 1" = 100' with the following information:

- (1) North arrow and location/vicinity map;
- (2) Property lines, total site acreage and the location, purpose and width of easements;
- (3) Location of perennial streams;

(4) Location of septic tank drainage fields;

(5) Existing and proposed buildings, including front, side and rear yard setbacks, other impervious improvements and total impervious area (acreage and site percentages); and

(6) Proposed sedimentation and erosion control measures.

(C) The Zoning Enforcement Officer shall review the completed preliminary plan application and shall submit recommendations to the Alamance County Building Inspector for further review and final action. The Building Inspector shall either approve, approve conditionally or disapprove each application and return it to the Zoning Enforcement Officer.

(D) No construction or installation of improvements shall be begun in a proposed subdivision until the subdivision has been approved by the Board of Adjustment. When approved, the approval shall be indicated on the plat by the following certificate signed by the authorized individual:

Certificate of Approval for Recording Subdivision

I certify that the plat shown hereon complies with the Subdivision Regulations for the Town of Haw River, North Carolina and any supplemental regulations that may apply and that such plat has been approved according to the procedures for approval of subdivisions.

Date

Zoning Enforcement Officer

NOTICE: This property is located within a Public Water Supply Watershed - development restrictions may apply.

(E) The Zoning Enforcement Officer shall file the approved plat with the Register of Deeds within five working days of the approval.

(Ord. passed 11-2-15)

§ 155.231 SUBDIVISION STANDARDS AND REQUIRED IMPROVEMENTS.

(A) *General.* Subdivisions in any designated drinking supply watershed shall comply with general requirements and minimum standards of design of the Haw River Subdivision Ordinance as well as the requirements specified below.

(B) *Lots.* All lots shall provide adequate building space in accordance with the development standards contained in § 155.233. Lots which are smaller than the minimum required for residential lots shall be identified on the plat as, "NOT FOR RESIDENTIAL PURPOSES."

(C) *Built-upon area.* For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

(D) *Storm water drainage facilities.* The application shall be accompanied by a description of the proposed method of providing storm water drainage. The subdivider shall provide a drainage system that diverts storm water runoff away from surface waters and incorporates best management practices to minimize water quality impacts.

(E) *Erosion and sedimentation control.* The application shall be accompanied by a written statement that a Sedimentation and Erosion Control Plan has been submitted to and approved by the N.C. Division of Land Quality, if required.

(F) *Roads constructed in critical areas and watershed buffer areas.* Where possible, roads should be located outside of critical areas and watershed buffer areas. Roads constructed within these areas shall be designed and constructed so to minimize their impact on water quality.

(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.232 DEVELOPMENT REGULATIONS.

To provide an additional layer of protection for drinking water supply watersheds, the following watershed overlay districts are established. Within each watershed shall be two tiers of control. The area nearest the water supply shall have the higher level of regulation because proximity to the intake creates higher risk of contamination. The remaining part of the watershed shall have less restrictions because the greater distance from the point of intake lowers risk of contamination: the Critical Area Overlay District (WS-II-CA) shall apply to the Back Creek Watershed within the Town of Haw River's planning and zoning jurisdiction.

(Ord. passed 11-2-15)

§ 155.233 BACK CREEK LAKE WATERSHED - CRITICAL AREA OVERLAY DISTRICT (WS-II-CA).

(A) *Intent.* In order to maintain a predominately undeveloped land use intensity pattern, single-family residential uses shall be allowed at a maximum of one dwelling unit per two acres. All other residential and nonresidential development shall be allowed at a maximum 6% built-upon area.

(B) *Permitted uses.*

(1) All uses allowed in the underlying zoning districts where the watershed is located, subject to the modifications noted below, unless specifically excluded as a prohibited use.

(2) Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993 shall maintain a minimum ten foot vegetative buffer or equivalent control as determined by the Soil and Water Conservation Commission along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission.

(3) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).

(C) *Prohibited uses.*

(1) Manufacture, use or storage of any hazardous or toxic materials waste as listed on the EPA hazardous material list or determined by the Alamance County Board of Commissioners unless a spill containment plan is implemented.

(2) New underground fuel or chemical storage tanks.

(3) Developments with curb and gutters.

(4) Sanitary landfills or incinerators.

(5) Sites for land application of sludge/residuals or petroleum contaminated soils.

(6) Petroleum products storage up to 100,000 gallons.

(7) Commercial uses which sell, store or distribute motor fuels or other hazardous materials.

(8) Metal salvage facilities including junkyards.

(9) Package treatment plants or public community sewage treatment facilities may only be allowed if the Health Department determines that an existing public health problem can be alleviated by constructing sewage facilities.

(D) *Density and built-upon limits.*

(1) Single-family residential development shall not exceed one dwelling unit per two acres on a project-by-project basis. Nor shall any single-family residential development exceed a 6% density threshold area of built upon area to total area of the property. Nor shall any high-density residential development(s) exceed a 24% density threshold area of built upon area to total area of the property. No residential lot shall be less than two acres, except within an approved cluster development. For purposes

of density calculations, total project acreage shall not include area within the designated right-of-way of any public or private street within the project, nor shall it include any area within the project donated or dedicated to the public.

(2) Nonresidential development shall not exceed 3,000 square feet of floor space and such uses shall only be for the immediate neighborhood.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.234 CLUSTER DEVELOPMENT.

Clustering of development is allowed under the following conditions:

(A) Minimum lot sizes are not applicable to single-family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single-family detached developments in § 155.233. Built-upon area or storm water control requirements of the project shall not exceed that allowed for the critical area or balance of watershed, whichever applies.

(B) All built-upon area shall be designed and located to minimize storm water runoff impact to the receiving waters and minimize concentrated storm water flow.

(C) The remainder of the tract shall remain in a vegetated or natural state. Where the development has an incorporated property owners association, the title of the open space area shall be conveyed to the association for management. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.
(Ord. passed 11-2-15)

§ 155.235 BUFFER AREAS REQUIRED.

Buffer. A minimum 50 foot vegetative buffer is required for any new development activity which exceeds the basic density/built-upon limitations along all perennial waters indicated on the most recent versions of USGS 1:24,000 scale topographic maps and the most recent published NRCS Soil Survey maps. Nothing in this division shall prevent artificial streambank or shoreline stabilization. The town's riparian buffer protection ordinance shall have precedence over all stream or riparian buffer regulations within the Town of Haw River's jurisdiction.
(Ord. passed 11-2-15; Ord. passed 12-5-16) Penalty, see § 155.999

§ 155.236 RULES GOVERNING THE INTERPRETATION OF WATERSHED AREA BOUNDARIES.

Where uncertainty exists as to the boundaries of the watershed areas, as shown on the watershed map, the following rules shall apply:

(A) Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or center lines thereof, such lines shall be construed to be said boundaries.

(B) Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, where conflict exists as to whether a tract is inside or outside a watershed area, it shall be the responsibility of the petitioner to present topographic data supporting his or her case.

(C) Where the watershed area boundaries lie at a scaled distance more than 25 feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the watershed map.

(D) Where the watershed area boundaries lie at a scaled distance of 25 feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.

(E) Where other uncertainty exists, the Zoning Enforcement Officer shall interpret the watershed map as to location of such boundaries. This decision may be appealed to the Board of Adjustment.
(Ord. passed 11-2-15)

§ 155.237 APPLICATION OF REGULATIONS.

(A) No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.

(B) No area required for the purpose of complying with the provisions of this chapter shall be included in the area required for another building.

(C) Every residential building hereafter erected, moved or structurally altered shall be located on a lot which conforms to the regulations herein specified, except as permitted in this chapter.

(D) If a use or class of use is not specifically indicated as being allowed in a watershed area, such or class of use is prohibited.

(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.238 EXISTING DEVELOPMENT.

Any existing development, as defined in § 155.227, may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing developments must meet the requirements of this subchapter, however, the built-upon area of the existing development is not required to be included in the density calculations.

(A) *Vacant lots.* Vacant lots for which plats or deeds have been recorded in the Office of the Register of Deeds of Alamance County may be used for any of the uses allowed in the watershed area in which it is located, provided the following:

(1) Where the lot area is below the minimum specified in this subchapter, the owner may apply for a variance which provides for compliance with the buffer requirement to the maximum extent practicable. The Zoning Enforcement Officer is authorized to issue a watershed protection permit.

(2) Where the buffer standard needs to be modified due to the shape and/or size of a residential or nonresidential lot, the owner may apply for a variance in order to obtain a watershed protection permit, provided the buffer requirement is complied with to the maximum extent practicable. The procedures for obtaining a minor or major variance are found in § 155.249.

(3) Notwithstanding the above provisions, whenever two or more contiguous residential vacant lots of record are in single ownership at any time after the adoption of this chapter and such lots individually have less area than the minimum requirements for residential purposes for the watershed area in which such lots are located, such lots shall be combined to create one or more lots that meet the standards of this chapter, or if this is impossible, reduce to the extent possible the nonconformity of the lots.

(B) *Occupied lots.* Lots occupied for residential purposes at the time of the adoption of this chapter may continue to be used provided that whenever two or more adjoining lots of record, one of which is occupied, are in single ownership at any time after the adoption of this chapter, and such lots individually or together have less area than the minimum requirements for residential purposes for the watershed area in which they are located, such lots shall be combined to create lots which meet the minimum size requirements or which minimize the degree of nonconformity.

(C) *Uses of land.* Uses existing at the time of adoption of this chapter where such use of the land is not permitted to be established hereafter in the watershed area in which it is located may be continued except as follows:

(1) When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.

(2) Such use of land shall be changed only to an allowed use.

(3) When such use ceases for a period of at least one year, it shall not be reestablished.

(D) *Reconstruction of buildings or built-upon areas.* Any existing building or built-upon area not in conformance with the restrictions of this chapter that has been damaged or destroyed by any means to an extent of more than 50% of its replacement cost or bulk, exclusive of foundations and land value may be repaired and/or reconstructed, except that there are no restrictions on single-family residential development, provided:

(1) Repair or reconstruction is initiated within 12 months and completed within two years of such damage.

(2) The total amount of space devoted to built-upon area may not be increased unless storm water control that equals or exceeds the previous development is provided.

(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.239 WATERSHED PROTECTION PERMIT REQUIRED.

(A) Except where a single-family residence is constructed on a lot deeded prior to the effective date of this chapter, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a watershed protection permit has been issued by the Zoning Enforcement Officer. No watershed protection permit shall be issued except in conformity with the provisions of this chapter.

(B) Watershed protection permit applications shall be filed with the Zoning Enforcement Officer. The application shall include a completed application form and supporting documentation consistent with

§ 155.230(B). If the application is for a single structure, the Zoning Enforcement Officer may waive some of the documentation requirements; however, compliance with all watershed protection measures must be assured.

(C) Prior to issuance of a watershed protection permit, the Zoning Enforcement Officer may consult with qualified personnel for assistance to determine if the application meets the requirements of this subchapter.

(D) A watershed protection permit shall expire if a building permit or watershed occupancy permit for such use is not obtained by the applicant within 12 months from the date of issuance.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.240 BUILDING PERMIT REQUIRED.

After receiving a watershed protection permit, a building permit shall be obtained from the Alamance County Inspections Department for construction or alteration of any building or structure pursuant to the procedures of the County Inspections Department.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.241 WATERSHED PROTECTION OCCUPANCY PERMIT REQUIRED.

(A) The Zoning Enforcement Officer shall issue a watershed protection occupancy permit certifying that all requirements of this chapter have been met prior to the occupancy or use of a building hereafter erected, altered or moved and/or prior to the change of use of any building or land.

(B) A watershed protection occupancy permit, either for the whole or part of a building, shall be applied for at the same time as the application for a watershed protection permit and shall be issued or denied within ten days after the erection or structural alterations of the building.

(C) When only a change in use of land or existing building occurs, the Zoning Enforcement Officer shall issue a watershed protection occupancy permit certifying that all requirements of this chapter have been met at the same time the watershed protection permit is issued.

(D) If the watershed protection occupancy permit is denied, the Zoning Enforcement Officer shall notify the applicant in writing stating the reasons for denial.

(E) No building or structure which has been erected, moved or structurally altered may be occupied until the Zoning Enforcement Officer has approved and issued a watershed protection occupancy permit.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.242 PUBLIC HEALTH REGULATIONS.

No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which use ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of storm water runoff; or any other situation found to pose a threat to water quality. In the event that any of these threats exist, appropriate enforcement authorities (for example the County Health Department, N.C. Land Quality Division) may increase the minimum requirements of this chapter, in order to protect the public health.

(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.243 ABATEMENT.

(A) The Zoning Enforcement Officer shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.

(B) The Zoning Enforcement Officer shall report all findings to the Board of Adjustment. The Administrator may consult with any public agency or official and request recommendations.

(C) Where the Board of Adjustment finds a threat to water quality and the public health, safety and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.

(Ord. passed 11-2-15)

§ 155.244 WATERSHED ADMINISTRATOR DUTIES.

The Haw River Zoning Enforcement Officer is hereby appointed the Watershed Administrator who shall be duly sworn in that capacity. It shall be the duty of the Zoning Enforcement Officer acting as Watershed Administrator to administer and enforce the provisions of this subchapter as follows:

(A) The Zoning Enforcement Officer shall issue watershed protection permits and watershed protection occupancy permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Zoning Enforcement Officer.

(B) The Zoning Enforcement Officer shall serve as Clerk to the Board of Adjustment which sits as the Watershed Review Board.

(C) The Zoning Enforcement Officer shall keep records of all amendments to this subchapter and shall provide copies of all amendments upon adoption to the Supervisor of the Classification and Standards Group, Water Quality Section, N.C. Division of Environmental Management.

(D) The Zoning Enforcement Officer is granted the authority to administer and enforce the provisions of this chapter, exercising in the fulfillment of his or her responsibility the full police power of the town. The Zoning Enforcement Officer, or his or her duly authorized representative, may enter any building, structure or premises, as provided by law, to perform any duty imposed upon him by this chapter.

(E) The Zoning Enforcement Officer shall keep a record of variances to this subchapter. This record shall be submitted to the Supervisor of the Classification and Standards Group, Water Quality Section, N.C. Division of Environmental Management on or before January 1 every year and shall provide a description of each project receiving a variance and the reasons for granting the variance.
(Ord. passed 11-2-15)

§ 155.245 APPEAL FROM THE WATERSHED ADMINISTRATOR.

Any order, requirement, decision or determination made by the Zoning Enforcement Officer acting as Watershed Administrator may be appealed to and decided by the Board of Adjustment as specified in this chapter.
(Ord. passed 11-2-15)

§ 155.246 CHANGES AND AMENDMENTS TO THE WATERSHED PROTECTION ORDINANCE.

(A) The Town Council may, on its own motion or on petition, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restrictions as described herein.

(B) No action shall be taken until the proposal has been submitted to the Board of Adjustment for review and recommendations. If no recommendation has been received from the Board of Adjustment within 45 days after submission of the proposal to the Chairman of the Board of Adjustment, the Town Council may proceed as though a favorable report had been received.

(C) Under no circumstances shall the Town Council adopt such amendments, supplements or changes that would cause this subchapter to violate the watershed protection rules as adopted by the N.C. Environmental Management Commission. All amendments must be filed with the appropriate Division of the N.C. Department of Environmental and Natural Resources.
(Ord. passed 10-7-13; Ord. passed 11-2-15)

§ 155.247 PUBLIC NOTICE AND PUBLIC HEARING REQUIREMENTS.

Before adopting or amending this subchapter, the Town Council shall hold a public hearing. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area.

(Ord. passed 11-2-15)

§ 155.248 ESTABLISHMENT OF WATERSHED REVIEW BOARD.

The Haw River Board of Adjustment shall serve as the Watershed Review Board. The same rules of procedure as specified in this chapter shall apply.

(Ord. passed 11-2-15)

§ 155.249 POWERS AND DUTIES OF BOARD OF ADJUSTMENT ACTING AS WATERSHED REVIEW BOARD.

(A) The Board of Adjustment, acting as the Watershed Review Board, shall hear and decide appeals from any decision or determination made by the Zoning Enforcement Officer in the enforcement of this subchapter. The procedures for appeal shall be the same as provided in this chapter.

(B) The Board of Adjustment shall have the power to approve subdivisions in accordance with the provisions of this subchapter and the power to increase the minimum requirements of this subchapter to protect the public health, safety and welfare (see § 155.242).

(C) The Board of Adjustment shall have the power to authorize, in specific cases, minor variances from the terms of this subchapter as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this subchapter will result in practical difficulties or unnecessary hardship, so that the spirit of this subchapter shall be observed, public safety and welfare secured and substantial justice done.

(1) *Applications for a minor variance.* Application shall be made on the proper form obtainable from the Zoning Enforcement Officer and shall include at a minimum:

(a) A site plan, drawn to scale, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; surface water drainage;

(b) A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Board of Adjustment in considering the application; and

(c) The Zoning Enforcement Officer shall notify in writing each local government having jurisdiction in the watershed. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Zoning Enforcement Officer before a decision by the Board of Adjustment. Such comments shall become a part of the record of proceedings of the Board of Adjustment.

(2) *Required findings for the granting of a minor variance.* Before the Board of Adjustment may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case and shall include the factual reasons on which they are based:

(a) That there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the subchapter. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:

1. If the applicant complies with the provisions of the subchapter, but can secure no reasonable return from nor make reasonable use of the property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the subchapter that will make possible the reasonable use of his or her property.

2. The hardship results from the application of this subchapter to the property rather than from other factors such as deed restrictions or other hardship.

3. The hardship is due to the physical nature of the applicant's property, such as its size, shape or topography, which is different from that of neighboring property.

4. The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates this subchapter or who purchases the property after the effective date of this subchapter and then comes to the Board for relief.

5. The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others and would not promote equal justice.

(b) That the variance is in harmony with the general purpose and intent of this chapter and preserves its spirit; and

(c) That in the granting the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety or general welfare.

(3) *Conditions to granting a minor variance.* In granting the variance, the Watershed Review Board may attach such conditions regarding the location, character and other features of the proposed building, structure or use as it deems advisable in furtherance of the purpose of this subchapter. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.

(4) *Grounds for refusal to hear an appeal.* The Watershed Review Board may refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

(5) *Watershed protection permit.* A variance issued in accordance with this subchapter shall be considered a watershed protection permit and shall expire if a building permit or watershed occupancy permit for such use is not obtained by the applicant within six months from the date of the decision.

(D) If an application calls for the granting of a major variance and if the Board of Adjustment decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed, to include the following:

- (1) The variance application;
- (2) The hearing notices;
- (3) The evidence presented;
- (4) Motions, offers of proof, objections to evidence and rulings on them;
- (5) Proposed findings and exceptions; and
- (6) The proposed decision, including all conditions proposed to be added to the permit.

(E) The preliminary record shall be sent to the N.C. Environmental Management Commission for its review as follows:

(1) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that the property owner can secure no reasonable return from nor make any practical use of the property unless the proposed variance is granted, and the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

(2) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that the property owner can secure a reasonable return from or make a practical use of the property without the variance, or the variance, if granted, will result in a serious threat to the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Board of Adjustment. The Board shall prepare a final decision denying the variance as proposed.

(Ord. passed 11-2-15)

§ 155.250 APPEALS FROM BOARD OF ADJUSTMENT.

Appeals from the Board of Adjustment must be filed with the Superior Court within 30 days from the date of the decision. The appeal of decisions by the Superior Court will be in the manner of certiorari.

(Ord. passed 11-2-15)

§ 155.251 HIGH DENSITY DEVELOPMENT STANDARDS.

(A) The Watershed Review Board may approve high density development proposals consistent with the following standards: WS-II Watershed Areas-Critical Area (WS-II-CA). Where new development exceeds either one dwelling unit per two acres or 6% built-upon area, engineered stormwater controls shall be used to control runoff from the first inch of rainfall and development shall not exceed 24% built-upon area.

(B) All high density development shall meet the requirements of this chapter.

(Ord. passed 10-7-13; Ord. passed 11-2-15)

§ 155.252 HIGH DENSITY DEVELOPMENT PERMIT APPLICATION

(A) A high density development permit shall be required for new development exceeding the requirements of the low density option.

(B) Application for a high density development shall be addressed and submitted to the Watershed Review Board through the Watershed Administrator. Application for high density development permit shall be made on the proper form and shall include the following information:

(1) A completed high density development permit application signed by the owner of the property;

(2) Two reproducible copies of the development plan within the drainage basin including the following applicable information: application forms, subdivision plat checklist and detailed information concerning built-upon area, etc;

(3) Two reproducible copies of the plans and specifications of the stormwater control structure consistent with this chapter;

(4) When required by law, written verification that a soil erosion and sedimentation control plan has been approved by the appropriate state or local agency; and

(5) Permit application fees consistent with this chapter.

(C) Prior to taking final action on any application, the Board or the Watershed Administrator may provide an opportunity to public agencies affected by the development proposal to review and make recommendations on the application. However, failure of the agencies to submit their comments and recommendations shall not delay the Board's action within prescribed time limit.

(D) The Watershed Review Board shall either approve or disapprove each application for a high density development permit based on the applicable criteria contained in this chapter. First consideration of a completed application shall be at the next regularly scheduled meeting of the Boards following its receipt. The Board shall take action on the application as its first consideration or within 65 days of its first consideration.

(1) If the Board approves the application based on its findings, such approval shall be indicated on the permit and both copies of the site plan and both copies of the plans and specifications of the stormwater control structure. A high density development permit shall be issued after the applicant posts a performance bond acceptable security as required in this chapter and executes an operation and maintenance agreement as required. A copy of the permit and one copy of each set of plans shall be kept on file at the Watershed Administrator's office. The original permit and one copy of each set of plans shall be delivered to the applicant either by personal service or registered mail, return receipt requested.

(2) If the Board disapproves the application based on its findings, the reasons for such action shall be stated in the minutes of the Board and presented to the applicant in writing either by personal service or registered mail, return receipt requested. The applicant may make changes and submit a revised plan. All revisions shall be submitted, reviewed, and acted upon by the Board pursuant to the procedures of this section.

(E) In addition to any other requirements provided by this chapter, the Board may designate additional permit conditions and requirements to assure that the use will be harmonious with the area in which it is proposed to be located and with the spirit of this chapter. All additional conditions shall be entered in the minutes of the meeting at which the permit is granted, on all plans and on the permit certificate. All conditions so imposed shall run with the land and shall be binding upon the applicant and the applicant's heir, successors, or assigns during the continuation of the permitted use.

(F) The Board shall issue a written ruling and make copies available at the office of the Watershed Administrator and the Town Clerk.

(Ord. passed 10-7-13; Ord. passed 11-2-15)

§ 155.253 STORMWATER CONTROL STRUCTURES.

(A) All stormwater control structures shall be designed by a North Carolina registered professional with qualifications appropriate for the type of system required; these registered professionals are defined as professional engineers, landscape architect, to the extent that the design represents are defined as professional engineers, landscape architect, to the extent that G.S. Ch. 89A allow and land surveyors, to the extent that the design represents incidental drainage within a subdivision, as provided in G.S. 89C-3(7).

(B) All projects requiring stormwater controls shall use structural stormwater management systems, as outlined in this Chapter 155. All structural stormwater systems shall be designed in accordance with the NC DENR BMP Design Manual as well as the following design criteria:

(1) The discharge rate following the 1-inch design storm shall be such that the runoff draws down to the pre-storm design stage within five days, but not less than two days; or

(2) The post development peak discharge rate shall equal the predevelopment rate for the one-year, 24-hour storm.

(3) In the event new development or redevelopment has, in the opinion of the Stormwater Administrator or his designee, the potential to cause increased downstream flooding and erosion, a structural stormwater management system will be required that does not allow stormwater to leave the project site at a rate greater than the predevelopment discharge rate for up to the 100-year, 24-hour storm;

(4) All designs shall be in compliance with the North Carolina Division of Water Quality's Stormwater Best Management Practices Design Manual's latest revision;

(5) Vegetative filters shall be constructed for the overflow and discharge of all stormwater wet detention ponds and shall be at least 30 feet in length. The slope and width of the vegetative filter shall be determined so as to provide a non-erosive velocity of flow-through the filter for a ten-year, 24-hour storm with a ten-year, one-hour intensity with a slope of 5% or less. Vegetation in the filter shall be natural vegetation, grasses or artificially planted wetland vegetation appropriate for the site characteristics;

(6) In the event new development or redevelopment has, in the opinion of the Stormwater Administrator or his designee, the potential to cause increased downstream flooding and erosion, a structural stormwater management system will be required that does not allow stormwater to leave the project site at a rate greater than the predevelopment discharge rate for up to the 100-year, 24-hour storm;

(7) All designs shall be in compliance with the North Carolina Division of Water Quality's Stormwater Best Management Practices Design Manual's latest revision;

(C) In addition to the vegetative filters required, all land areas outside of the pond shall be provided with a ground cover sufficient to restrain erosion within ten days after any land disturbance. Upon completion of the stormwater control structure, a permanent ground cover shall be established and maintained as part of the maintenance agreement;

(D) A description of the area containing the stormwater control structure shall be prepared and filed as described in this chapter, as a separate deed with the Alamance County Register of Deeds along with any easements necessary for general access to the stormwater control structure. The deeded area shall include the stormwater control structure, vegetative filters, all pipes and water control structures, berms, dikes, etc., and sufficient area to perform inspections, maintenance, repairs, and reconstruction.

(E) Qualifying areas of the stormwater control structure may be considered pervious when computing total built-upon area. However, if the structure is used to compute the percentage built-upon area for one site, it shall not be used to compute built-upon area for any other site or area.

(Ord. passed 10-7-13; Ord. passed 11-2-15)

§ 155.254 POSTING OF FINANCIAL SECURITY REQUIRED AND OPERATION AND MAINTENANCE REQUIREMENTS.

(A) Before the Watershed Administrator shall approve the completed facility and issue any permit to exceed, the developer and/or maintaining entity shall furnish the Town of Haw River with a financial guarantee ensuring future maintenance, operation and repair of the facility. The financial guarantee shall be in the form of cash, an irrevocable letter of credit or other instrument readily convertible to cash at face value and shall be deposited and made payable to the Town of Haw River. The amount of the deposit shall be equal to 40% of the total cost of constructing the facility. The initial cost estimates shall be the responsibility of the developer but the approval of the final cost estimate shall be made by the Watershed Administrator or his or her agent. At this time the developer and/or maintaining entity shall also pay to the Town of Haw River a fee as set by the Town Council to cover annual inspections by the town for 20 years.

(B) The initial duration of the financial guarantee shall be for 20 years. At the end of that period the Town of Haw River may, at its own option, require extension of the guarantee for an additional period of up to 20 years based upon future maintenance cost or take whatever lawful action it may deem appropriate at that time. The financial guarantee may be dissolved at any time in its lifetime by mutual agreement when the need for such guarantee no longer exists.

(C) As part of the financial guarantee, the developer or maintaining entity shall enter into a binding operation and maintenance agreement in a form acceptable to and enforceable by the Town of Haw River. Such agreement shall require the responsible entity to maintain, repair and, if necessary, reconstruct the facility in accordance with the approved operation and maintenance plan. The plan shall clearly indicate the steps that will be taken for restoring a stormwater control structure to design specifications if a failure occurs.

(D) Landscaping and grounds management shall be the responsibility of the owning entity. However, vegetation shall not be established or allowed to mature to the extent that the integrity of the control structure is diminished or threatened, or to the extent of interfering with any easement or access to the stormwater control structure.

(E) The agreement shall pledge the financial guarantee in support of the agreement but also shall acknowledge that default does not release the entity from liability/responsibility for operation, maintenance and repair/reconstruction. The agreement shall provide that in case of default by the operating entity, the Town of Haw River, at any time after default, may on its own motion assume actual maintenance and operation of the facility and convert for its use in maintenance and operation any and all funds remaining in the financial guarantee. The agreement shall be recorded with the appropriate County Register of Deeds by the Watershed Administrator after it is executed by both parties. No changes to the agreement or its terms including ownership and responsible entity shall be made except upon agreement of the parties.

(F) Amendments to the plans and specifications of the stormwater control structure and/or the operation and maintenance plan shall be approved by the Watershed Administrator. Proposed changes shall be prepared by a North Carolina registered professional engineer or landscape architect (to the extent that G.S. Ch.89A allows) and submitted to and reviewed by the Watershed Administrator.
(Ord. passed 10-7-13; Ord. passed 11-2-15)

§ 155.255 APPLICATION AND INSPECTION FEES.

(A) Processing and inspection fees shall be submitted in the form of a check or money order made payable to the town. Applications shall be returned if not accompanied by the required fee.

(B) A permit and inspection fee schedule, as approved by the Town of Haw River Town Council, shall be posted in the Office of the Watershed Administrator.

(C) Inspection fees shall be valid for 60 days. An inspection fee shall be required when improvements are made to the stormwater control structure consistent with this chapter, except in the case when a similar fee has been paid within the last 60 days.
(Ord. passed 10-7-13; Ord. passed 11-2-15)

§ 155.256 INSPECTIONS AND RELEASE OF THE PERFORMANCE BOND.

(A) The stormwater control structure shall be inspected by the Watershed Administrator, after the owning entity notifies the Watershed Administrator that all work has been completed. At this inspection, the owning entity shall provide:

(1) The signed deed, related easements and survey plat for the stormwater control structure ready for filing with the Alamance County Register of Deeds;

(2) A certification sealed by an engineer or landscape architect (to the extent that G.S. Ch. 89A, allows) stating that the stormwater control structure is complete and consistent with the approved plans and specifications

(B) The Watershed Administrator shall present the materials submitted by the developer and the inspection report and recommendations to the Watershed Review Board at its next regularly scheduled meeting.

(1) If the Board approves the inspection report and accepts the certification, deed, and easements, the Board shall file the deed and easements with the Alamance County Register of Deeds, release up to 60% of the value of the performance bond or other security and issue a Watershed Protection Occupancy Permit for the stormwater control structure, consistent with § 155.241 of this chapter.

(2) If deficiencies are found, the Board shall direct that improvements and inspections be made and/or documents corrected and resubmitted to the Board.

(C) No sooner than one year after the filing date of the deed, easements and maintenance agreement, the developer may petition the Watershed Review Board to release the remaining value of the performance bond or other security. Upon receipt of said petition, the Watershed Administrator shall inspect the stormwater control structure to determine whether the controls are performing as designed and intended. The Watershed Administrator shall present the petition, inspection report, and recommendations to the Watershed Review Board.

(1) If the Board approves the report and accepts the petition, the developer shall deposit with the Watershed Review Board a cash amount equal to that described in this chapter, after which, the Board shall release the performance bond or other security.

(2) If the Board does not accept the report and rejects the petition, the Board shall provide the developer with instructions to correct any deficiencies and all steps necessary for the release of the performance bond or other security.

(D) A watershed protection occupancy permit shall not be issued for any building within the permitted development until the Watershed Review Board has approved the stormwater control structure, as provided.

(E) All stormwater control structures shall be inspected at least once on an annual basis to determine whether the controls are performing as designed and intended. Records of inspection shall be maintained on forms approved by the Town of Haw River. Annual inspections shall begin within one year of filing date of the deed for the stormwater control structure.

(F) In the event the Watershed Administrator discovers the need for corrective action or improvements, the Watershed Administrator shall notify the owning entity of the needed improvements and the date by which the corrective action is to be completed. All improvements shall be made consistent with the plans and specifications of the stormwater control structure and the operation maintenance plan or manual. After notification by the owning entity, the Watershed Administrator shall inspect and approve the completed improvements. The Watershed Administrator may consult with an engineer or landscape architect (to the extent that G.S. Ch. 89A allows) designated by the Watershed Review Board.

(G) Appeals of any order, requirement, decision, or determination made by the Watershed Administrator may be made to and decided by the Watershed Review Board consistent with Chapter 155. (Ord. passed 10-7-13; Ord. passed 11-2-15)

§ 155.257 SANCTIONS.

(A) In addition to the remedies described in § 155.999 of this chapter and consistent with G.S. 160A-175, the Watershed Review Board may seek enforcement of this chapter through the Town Council by assessing a civil penalty to be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty in a prescribed period of time after being cited for violation of the chapter. Said violation may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. The court may issue an injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceeding, including the Rules of Civil Procedure in general and Rule 65 in particular.

(1) If the defendant fails or refuses to comply with an injunction or with an order of abatement with the time allowed by the court, the defendant may be cited for contempt and the town may execute the order of abatement. The town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien.

(2) The defendant may secure cancellation of an order of abatement by paying all costs of the proceeding and posting a bond for compliance with order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(B) Enforcement of this chapter may be by any one, all or a combination of the remedies authorized in this chapter. Each day's continuing violation shall be a separate and distinct offense. (Ord. passed 10-7-13; Ord. passed 11-2-15)

BOARD OF ADJUSTMENT**§ 155.260 BOARD ESTABLISHED.**

(A) A Board of Adjustment consisting of five members is hereby established. All members shall be citizens and residents of the town and shall be appointed by the Town Council, and shall be appointed in accordance with G.S. § 160A-362. The members of the Board of Adjustment shall receive no compensation for their services.

(B) The term of office of the members of the Board of Adjustment shall be for overlapping terms of three years. Since the Haw River Town Council has appointed itself as the Town of Haw River Board of Adjustment, newly sworn-in members of the Council become immediately eligible to be appointed to the Board of Adjustment. Such appointments shall be for three-year terms, and a reappointment of one year to complete the four-year term to which the Town Council is elected. Thereafter, as terms expire, all new appointments shall be for three-year terms. Nothing herein shall be construed as to forbid any member from being reappointed.

(C) Vacancies occurring for any reason other than expiration of term shall be filled as soon as is reasonably possible after such vacancy occurs by the proper board making the appointment. Such appointment shall be for the unexpired term, or for a longer term, up to three years if needed, to prevent the termination of four or more terms in the same year. Members may be removed for cause, by the Town Council, upon written charges and after public hearing.

(Ord. passed 11-2-15)

Cross-reference:

Powers of the Board, see § 155.267

Statutory reference:

Authority of Town Council to assign Planning and Zoning Board duties of Board of Adjustment, see G.S. § 160A-388(a)

§ 155.261 OFFICERS, RULES AND REGULATIONS.

The Board of Adjustment shall elect a Chairman and a Vice-Chairman from its members to serve for one year until reelected or until their successors are elected. The Board shall appoint a Secretary, who may be a municipal officer or an employee of the town. The Board of Adjustment shall adopt rules and bylaws in accordance with the provisions of this chapter and of G.S. Chapter 160A-388. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine.

(A) *Oaths.* The Chairman, or in his or her absence, the Vice-Chairman or clerk to the Board, may administer any oaths to witnesses to a matter coming before the Board. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely is guilty of a Class I misdemeanor.

(B) *Subpoenas*. The Chairman, or in his or her absence, the Vice-Chairman or clerk to the Board, may subpoena the witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. 160A-393(d) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The Chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The Chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

(Ord. passed 11-2-15)

§ 155.262 JURISDICTION AND DECISIONS OF THE BOARD.

(A) All members shall have equal rights, privileges and duties in all matters pertaining to the regulation of the Haw River Planning Area. Excepting matters concerning a variance request, the concurring majority vote of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any administrative official charged with the enforcement of this chapter, or to decide in favor of the applicant any matter which it is required to pass under this chapter or to affect any variation in this chapter. Matters concerning a variance request must meet a supermajority vote of 4/5ths or greater from the Board of Adjustment. In exercising its powers and duties, the Board of Adjustment may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination made by the Zoning Enforcement Officer, and shall have the powers of the Zoning Enforcement Officer from whom the appeal is taken and may issue or direct the issuance of a permit. The Board of Adjustment shall follow quasi-judicial procedures when deciding appeals and requests for variance and special and conditional use permits. The Board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development.

(B) In exercising the above mentioned powers, the Board of Adjustment may, in conformity with the provisions of the zoning regulations, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination made by the Zoning Enforcement Officer, and to that end shall have the powers of the Zoning Enforcement Officer from whom the appeal is taken, and may issue or direct the issuance of a permit. Excepting matters concerning a variance request, the concurring majority vote of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of an administrative official charged with the enforcement of the zoning regulations, or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance, or to grant a variance from the provisions of the zoning regulations. Matters concerning a variance request must meet a supermajority vote of 4/5ths or greater from the Board of Adjustment.

(C) On all appeals, applications and other matters brought before the Board of Adjustment, the Board shall inform in writing all the parties involved of its decision and the reasons for that decision.

(Ord. passed 11-2-15)

§ 155.263 CONDUCT OF HEARING.

(A) All hearings of the Board of Adjustment shall be open to the public. The Secretary shall keep minutes of its proceedings, examinations and official actions, showing the vote of each member upon each question, and the absence or failure of any member to vote, to serve as a public record.

(B) No final action shall be taken on any matter unless a quorum is present. For the purposes of granting appeals, and permits, a quorum shall be a simple majority of the membership of the board. Variances require a 4/5ths supermajority for passage by the Board. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered 'members of the board' for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members. For the purposes of conducting other business related to the functions of the board, such as adopting or amending rules of procedure or approving the agenda, a quorum shall simply be a simple majority of the full membership of the board.

(C) Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any persons entitled to receive notice as provided by the zoning or unified development ordinance. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine owners of property entitled to mailed notice. In the absence of evidence, the town may rely on the Alamance County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least ten days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way, so it is clearly visible to passers-by.

(Ord. passed 11-2-15)

§ 155.264 DISPOSITION OF APPEALS.

The final disposition of each appeal shall be by recorded resolution indicating the reasons of the Board, therefore, based on findings of fact and conclusions of law, all of which shall be a public record. (Ord. passed 11-2-15)

§ 155.265 APPEALS FROM DECISION OF THE ZONING ENFORCEMENT OFFICER.

(A) Appeals to the Board of Adjustment may be taken by any person who has standing under G.S. 160A-393(d). Such appeals shall be taken within not more than 30 days from receipt of the written notice by filing with the town clerk a written notice of appeal specifying the grounds. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal. The Zoning Enforcement Officer who made the decision shall

give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The Zoning Enforcement Officer shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. The Zoning Enforcement Officer shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

(B) The Board of Adjustment shall fix a reasonable time for the hearing of the appeal or other matter referred to it, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party in interest may appear in person or by agent or attorney. The Zoning Enforcement Officer must be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

(Ord. passed 11-2-15)

§ 155.266 APPEAL STAYS ALL PROCEEDINGS.

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer certifies to the Board of Adjustment, after the notice of appeal is filed, that by reason of facts stated in an affidavit, a stay would in the Zoning Enforcement Officer's opinion cause imminent peril to life or property, or because the violation charged is transitory in nature and a stay would interfere with enforcement of this chapter. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by a Court of Record on application, on notice to the Zoning Enforcement Officer and on due cause shown.

(Ord. passed 11-2-15)

§ 155.267 POWERS OF THE BOARD.

The Board of Adjustment shall have the following powers and duties:

(A) *Administrative review.* To hear and decide special and conditional use permits, requests for variances, and appeals of decisions of administrative officials charged with enforcement of the ordinance. As used in this section, the term "decision" includes any final and binding order, requirement, or determination. The Board of Adjustment shall follow quasi-judicial procedures when deciding appeals and requests for variances and special and conditional use permits. The Board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development.

(B) *Quasi-judicial decisions and judicial review.* The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent,

material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the Board. A quasi-judicial is effective upon filing the written decision with the clerk to the Board or such other office or official as the ordinance specifies. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

(C) *Special and conditional use permits.* The Board of Adjustment may hear and decide special and conditional use permits in accordance with the Town of Haw River Zoning Ordinance. The Board of Adjustment may impose reasonable conditions upon any variance it grants. These conditions shall be in furtherance of the objectives of the particular regulation from which the variance is granted.

(D) *Variances.*

(1) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will, in an individual case, result in undue or unnecessary hardship, and so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.

(2) Such variance may be granted in an individual case of unnecessary hardship upon a finding by the Board of Adjustment that the following conditions exist:

(a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district;

(b) Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents in the district in which the property is located;

(c) A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located;

(d) The requested variance will be in harmony with purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare;

(e) The special circumstances are not the result of actions by the applicant, excluding the act of purchasing property or properties with knowledge that circumstances exist that may justify the grant of a variance; and

(f) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

(3) At the time of a request for a variance, the person making the request shall pay a fee set by the Town Council to cover advertising and administrative costs.
(Ord. passed 11-2-15)

§ 155.268 REHEARINGS.

The Board shall refuse to hear an appeal or application previously denied if it finds there have been no substantial changes in conditions or circumstances bearing on the appeal or application.
(Ord. passed 11-2-15)

§ 155.269 REVIEW BY CERTIORARI.

Any person or persons, jointly or severally, aggrieved by any decision of the Board or any taxpayer, or any officer, department, board, or bureau of the Town of Haw River, may present to a court of competent jurisdiction a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality; whereupon such decision of said Board shall be subject to review by certiorari as provided by law. Any appeal to the Superior Court shall be taken within 30 days after the decision of the Board is filed in the office of the Town Clerk and a written copy thereof is delivered to the appellant by personal delivery, electronic mail, or first-class mail, whichever is later. When first-class mail is the selected delivery mode, an additional three days shall be added to the time granted for filing a petition.
(Ord. passed 11-2-15)

§ 155.270 CONFLICT OF INTEREST.

(A) Members of the Board of Adjustment shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

(B) A member of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

(1) For the purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered “members of the board” for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members.

(2) In considering all proposed variances to this chapter, the Board shall, before making any finding in a specific case, first determine that the proposed variance will not allow the establishment of a use not otherwise permitted in a district by this chapter; extend in area or expand a nonconforming use of land; change the district boundaries shown on the zoning map; impair any adequate supply of light and air to adjacent property; materially increase the public danger of fire; materially diminish or impair established property values within the surrounding area; or in any other respect impair the public health, safety, morals and general welfare.

(3) In granting a variance, the Board may attach thereto such conditions regarding the location, character and other features of proposed building, structure or use as it may deem advisable in furtherance of the purpose of this chapter. Such variance may be granted in an individual case of unnecessary hardship upon a finding by the Board of Adjustment that the following conditions exist:

(a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question due to its size, shape or topography not applicable to other lands or structures in the same district.

(b) Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents in the district in which the property is located.

(c) A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.

(d) The requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the public good or general welfare.

(e) The special circumstances are not the result of the applicant.

(f) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

(g) The variance is not a request to permit a use of land, building or structure which is not permitted by right or by conditional use in the district involved.

(h) At the time of a request for a variance, the person making such a request shall pay a fee of \$50 to cover advertising and administrative costs.

(Ord. passed 11-2-15)

ADMINISTRATIVE AND LEGAL PROVISIONS**§ 155.280 ADMINISTRATION OF CHAPTER.**

The Zoning Enforcement Officer of the town is hereby authorized, and it shall be his or her duty, to administer and enforce the provisions of this chapter. Appeal from a decision of the Zoning Enforcement Officer may be made to the Board of Adjustment as provided in this chapter.
(Ord. passed 11-2-15)

§ 155.281 BUILDING PERMITS.

(A) Before commencing the construction, erection, repair, alteration, addition to, removal, moving or demolishing of any building or structure or part thereof, or before commencing any excavation for such building or structure, or before erecting, repairing or repainting any sign (except where specifically authorized by this chapter), a building permit for the same shall be secured from the Alamance County Building Inspector, as contracted by the Town of Haw River.

(B) The Building Inspector shall not issue a building permit unless the plans, specifications and intended use of such buildings, structures, land or part thereof conform in all respects to the provisions of this chapter.
(Ord. passed 11-2-15)

§ 155.282 CHANGES AND AMENDMENTS.

(A) All applications for amending the zoning ordinance or map shall be submitted at least 20 days before the regularly scheduled meeting of the Planning and Zoning Board, on forms supplied by the Zoning Enforcement Officer. There shall be a fee of \$100 payable to the town for each application for rezoning.

(B) No regulation or map shall be amended, supplemented, changed, modified or repealed until after a public hearing in relation thereto, at which time parties in interest and citizens shall have an opportunity to be heard. Notice of such public hearing(s) shall be given at least once a week for two consecutive calendar weeks in a newspaper of general circulation in the town. The first such publication shall run at least ten days before the scheduled public hearing date. Notice shall also be provided by first class mail to owners of property adjoining the subject property, to be mailed at least ten days before the scheduled public hearing date. Notice shall also be posted on the property subject to the request at least ten days before the scheduled public hearing date.

(C) The Town Council shall not take action on a proposal to amend this chapter until a recommendation has been received from the Planning and Zoning Board, provided that, if the Planning

and Zoning Board does not submit a recommendation within 60 days from the date the proposed amendment is first considered, the Town Council may take action. The Town Council shall state its reasons for any action taken and shall maintain a permanent record of all such actions.

(D) A simple majority vote is required for adoption of an amendment to this chapter. No such proposed change in this chapter or the zoning map if denied by action of the Town Council may be resubmitted within a period of one year from the date of such denial by the Town Council unless the Town Council unanimously finds that changing conditions in the area or new information concerning the property requested for rezoning warrant a resubmission for change in this chapter or the zoning map. (Ord. passed 11-2-15)

§ 155.283 APPEALS.

All questions and appeals in connection with the enforcement of this chapter shall be presented first to the Zoning Enforcement Officer. Questions shall come before the Board of Adjustment only upon appeal from the Zoning Enforcement Officer. Recourse from the decision of the Board of Adjustment shall be to the courts as provided by law. (Ord. passed 11-2-15)

§ 155.284 INTERPRETATION, PURPOSE AND CONFLICT.

In interpreting and applying the provisions of this chapter, they shall be held to the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties, provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants or agreements, the provisions of this chapter shall govern. (Ord. passed 11-2-15)

§ 155.285 REZONING APPLICATION AND PROCEDURES.

(A) *Overview.* The Town of Haw River Zoning Chapter details the zoning districts with the Town of Haw River that permit an array of land uses. This section details the public hearing procedures whereby property may be rezoned to a general use zoning district or conditionally rezoned along a set of specific guidelines requested by the property owner.

(B) *Consideration of requests.*

(1) The decision to approve or deny a request rests with the Town of Haw River Town Council. The Town of Haw River's Planning and Zoning Commission shall make recommendations to the Town Council.

(2) The administration, amendment and enforcement of the zoning chapter and official zoning map are accomplished within the framework of the Town of Haw River's Zoning Ordinance and its supporting documents:

- (a) Small area land use plan;
- (b) Thoroughfare plans;
- (c) Parks, recreation and open space plans;
- (d) Capital improvement plans; and
- (e) Existing conditions.

(3) These documents and the policies they represent are essential in the evaluation of the impact and appropriateness of each request, and feature the following conditional zoning districts:

- (a) Conditional Residential District;
- (b) Conditional Business District;
- (c) Conditional Industrial District; and
- (d) Conditional Mixed Use District.

(C) *Rezoning procedures; conditional zoning application.*

(1) *Pre-filing conference.* A pre-filing conference is recommended for anyone planning to file an application. This informal meeting allows staff to provide guidance in identifying the most appropriate

zoning district for the proposed use, share applicable land use plans, determine if the rezoning will have conditions, and indicate a likely recommendation to the Planning and Zoning Commission. This should be scheduled in the weeks prior to the submission deadline.

(2) *Conditional rezoning petition.* If the property to be rezoned is within a conditional rezoning district, it must be initiated through a petition by the landowner(s) of all of the parcels to be rezoned. This petition must include a site plan, drawn to scale, and supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property.

(a) The following information must be provided, if applicable, unless waived by the Town Manager:

1. A boundary survey and vicinity map showing the property's total acreage, its zoning classification(s), the general location in relation to major streets, railroads, and/or waterways, the date, and north arrow;
2. All existing easements, reservations, and rights-of-way;
3. Areas in which structures will be located;
4. Proposed use of all land and structures, including the number of residential units and the total square footage of any nonresidential development;
5. All yards, buffers, screening, and landscaping required by these regulations or proposed by the petitioner;
6. All existing and proposed points of access to public streets;
7. Watershed locations and delineation of areas within the regulatory floodplain as shown on the official flood hazard boundary maps for Alamance County;
8. Proposed phasing, if any;
9. The location of existing and proposed storm drainage patterns and facilities intended to serve the proposed development; and
10. Generalized traffic, parking, and circulation plans.

(b) The Town of Haw River may request multiple copies of this information for review by other town staff and elected officials. The town may also request additional information from the rezoning petitioner, including but not limited to:

1. Proposed number and general location of all structures;
2. Proposed screening, buffers and landscaping over and above that required by these regulations, as well as proposed treatment of any existing natural features;
3. Existing and general proposed topography, if available, at four-foot contour intervals or less;
4. The location of significant trees on the subject property;
5. Scale of buildings relative to abutting property;
6. Height of structures;
7. Exterior features of proposed development;
8. Any other information needed to demonstrate compliance with these regulations;
9. Proposed number and location of signs; and
10. Elevation or architectural plans.

(3) *Filing.*

(a) Filing for a rezoning or conditional rezoning requires:

1. A completed and signed application form;
2. Application fee; and
3. A zoning sketch plan or site plan if required.

(b) These items must be submitted on the submittal deadline date listed by the second Monday of each month. Failure to submit the required items on time may delay the processing of the application and scheduling of the public hearing the following week. It is recommended that applications be hand-delivered to the Planning and Community Development Department.

(4) *Notice.*

(a) Notification of a public hearing is required under state law. This consists of:

1. Notice by posting of a sign on the subject property approximately ten days prior to the public hearing.

2. Notice by newspaper advertisement in the legal section of a local paper. The ad is published twice - the first mailing between ten and 25 days and the second in a separate week from the first.

3. Notice by first class mail, to all adjoining and contiguous property owners mailed between ten and 25 days before the public hearing.

(b) Public inquiries often result from the notification process. The applicant may contact staff to inquire about citizen comments prior to the public hearing.

(D) *Before the meeting.*

(1) *Discussion with interested parties.* It is recommended that the applicant/petitioner discuss his or her plans with adjoining property owners, neighborhood associations and other interested parties prior to the public hearing.

(2) *Staff report.* Staff prepares a report for each case, which includes the staff recommendation. The report is available three or four days prior to the public hearing, and anyone may request a copy.

(3) *Withdrawals.*

(a) A request to withdraw must be made in writing, signed by the applicant and submitted to planning staff.

(b) If public notification has already been made, a withdrawal may only be granted by the Planning and Zoning Commission, or Town Council. Attendance at the meeting is required, and the applicant is not eligible for a refund.

(4) *Continuances.* A continuance of a request may only be granted by the Planning and Zoning Commission, or Town Council. Attendance at the meeting is required. If granted, the Planning and Zoning Commission, Town Council, or Town Staff will set a new date for the public meeting and/or hearing. The Planning and Zoning Commission, or Town Council may only continue a request for a total of 60 days.

(E) *The meeting.* The applicant, or his or her representative must be present at the Town of Haw River Planning and Zoning Commission, and Town Council meetings that are held in the Council Chambers of the Municipal Building, 403 East Main Street, Haw River. The Planning and Zoning Commission typically consists of eight seated members, and Town Council consists of five elected officials, including the mayor.

(1) *Meeting format for the Planning and Zoning Commission.*

(a) At the beginning of each meeting, the Chair of the Planning and Zoning Commission reviews the meeting and voting procedures. Following an approval of minutes, the Chair calls a case, the staff report is presented, and the public meeting is opened.

(b) During the public meeting, the applicant, his or her representative, or anyone in favor of the request will have an opportunity to address the Planning and Zoning Commission. Next, anyone in opposition to the request will be given an opportunity to speak.

(c) Maps, photographs, diagrams and other presentation materials may be incorporated into public hearing presentations. Any materials presented to the Planning and Zoning Commission remain with the case file, so duplicates should be provided. This includes written petitions, which should list the address for each signatory.

(2) *Outcomes.* A majority favorable vote constitutes a favorable recommendation of the request, which is automatically forwarded for a public hearing before the Town Council. Requests receiving an unfavorable vote to deny, or a tie constitute a denial, which is automatically forwarded for a public hearing before the Town Council.

(a) *Approval of conditional zoning district.* Conditional zoning district decisions are a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions. In considering any petition for a conditional zoning district, the Council shall act in accordance with requirements of § 155.282, Changes and Amendments. Conditional zoning district decisions shall be made in consideration of identified relevant adopted land use plans for the area, including, but not limited to, the official zoning map, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents.

(b) *Conditions to approval of petition.* In approving a petition for the reclassification of property to a conditional zoning district, the Planning and Zoning Board may recommend, and the Town Council may request, that reasonable and appropriate conditions be attached to approval of the petition. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, storm water drainage, the provision of open space, and other matters that the Town Council may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the town, county or state, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Town Council.

(c) *Effect of approval.*

1. If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the zoning maps.

2. If a petition is approved, the petitioner shall comply with all requirements established in the zoning and subdivision regulations for the Town of Haw River. Only those uses and

structures indicated in the approved petition and site plan shall be allowed on the subject property. A change of location of the structures may be authorized pursuant to alterations to approval (see below). The changes to the site plan layout will not increase the number of structures.

3. Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the zoning maps by the appropriate district designation. For example a rezoning to a condition business district shall be identified on the zoning map by the letters "CB" and the case number.

4. Any conditional zoning district approved on or after October 1, 1991, shall have vested rights pursuant to G.S. § 160A-385.1 for the period of time established pursuant to § 155.100, Zoning Vested Rights, except as such vested rights may be altered as allowed by G.S. § 160A-385.1(e). Vested rights shall remain effective beyond the end of the period of time established pursuant to § 155.100, Zoning Vested Rights for any buildings or uses for which a valid building permit had been issued during the vested rights period, so long as such building permit is valid.

(d) *Alterations to approval.*

1. Except as provided in division (d)2. below, changes to an approved petition or to the conditions attached to the approved petition shall be treated the same as amendments to these regulations or to the zoning maps and shall be processed in accordance with the procedures in this chapter.

2. The Town Manager or designee shall have the delegated authority to approve an administrative amendment change to an approved site plan. The standard for approving or denying such a requested change shall be that the change does not significantly alter the site plan or its conditions and that the change does not have a significant impact upon abutting properties. Any decision must be in writing stating the grounds for approval or denial.

3. Any changes that increase the intensity of the development are limited for nonresidential development to 10% of the approved requirement or 1,000 square feet, whichever is less. For residential development, increases in density are limited to 10% of the development or no more than five dwelling units, whichever is less.

4. The Town Manager or designee, however, shall always have the discretion to decline to exercise the delegated authority either because the designee is uncertain about approval of the change pursuant to the standard or because a rezoning petition for a public hearing by Town Council consideration is deemed appropriate under the circumstances. If the Town Manager or designee declines to exercise this authority, then the applicant can only file a rezoning petition for a public hearing and Council decision.

5. Any request for an administrative amendment shall be pursuant to a written letter, signed by the property owner, to the town detailing the requested change. Upon request, the applicant must provide any additional information that is requested. Upon an approval of an administrative amendment, the applicant must file a sufficient number of copies of a revised site plan as deemed necessary by the Town Manager.

6. Review of approval of a conditional zoning district. It is intended that property shall be reclassified to a conditional zoning district only in the event of firm plans to develop the property. Therefore, no sooner than three years after the date of approval of the petition, the Planning and Zoning Board may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Planning and Zoning Board determines that progress has not been made in accordance with the approved petition and conditions, the Planning and Zoning Board shall forward to the Town Council a report, which may recommend that the property be classified to another district.

(3) *Appeals*. If the Town Manager or designee denies approval of the requested amendment, then the applicant can appeal that decision to the Town Council for its review and decision, pursuant to the standard above. If a conditional rezoning is appealed, this requires notification to adjacent property owners within 15 days of the filed appeal. If the Town Council denies approval of the requested change, then the applicant must file a rezoning petition for an amendment to the site plan to receive further consideration. An adjacent property owner shall be entitled to appeal the approval of an administrative amendment change to the Town Council within 15 days of knowledge of the approval. Even if an adjacent property does not have knowledge of the approval, the approval shall be final after 30 days.

This document is intended for public information purposes only. It summarizes and omits some provisions. It is not to be construed or used as an official interpretation of the Town of Haw River Zoning Chapter in any legal proceeding.

(Ord. passed 11-2-15)

TOWN OF HAW RIVER
Conditional Rezoning Application, Part I

Date Submitted: _____ Fee/Receipt #: \$ _____ Case #: _____

Provide the required information as indicated below. Pursuant to the Town of Haw River Zoning Ordinance, this application will not be processed until application fees are paid; the form below is completed and signed; and all required maps, plans and documents have been submitted to the satisfaction of the Town. Additional sheets for tax references, signature blocks and conditions are available upon request.

Pursuant to the Town of Haw River Zoning Ordinance, the undersigned hereby requests the Town of Haw River to rezone the property described below from the _____ zoning district to the _____ zoning district. Said property is located _____
 _____;

Being a total of: _____ acres.

Further referenced on the following Alamance County Tax Maps (additional tax reference sheets available upon request):

Tax Map # _____	Block # _____	Lot # _____
Tax Map # _____	Block # _____	Lot # _____
Tax Map # _____	Block # _____	Lot # _____
Tax Map # _____	Block # _____	Lot # _____
Tax Map # _____	Block # _____	Lot # _____

Check One:

- _____ The property requested for rezoning is an entire parcel or parcels as shown on the Alamance County Tax Map.
- _____ The property requested for rezoning is a portion of a parcel or parcels as shown on the Alamance County Tax Map; a written legal description of the property and a map are attached.

Check One:

- _____ Public services (i.e. water and sewer) are not requested or required.
- _____ Public services (i.e. water and sewer) are requested or required.

Conditional Rezoning Requirements

- _____ Zoning Sketch Plan. A sketch plan illustrating proposed conditions and other pertinent information is required for all conditional rezoning requests. Sketch elements not illustrating proposed conditions are subject to subdivision and site plan review. Refer to the Zoning Ordinance for conditional rezoning requirements.
- _____ Zoning Conditions. Use and/or development conditions must be provided. Complete Part Two of this application. Refer to uses as listed in Table of Permitted Uses in the Zoning Ordinance.

TOWN OF HAW RIVER
Conditional Rezoning Application, Part II

Use Conditions

Uses of the property shall be limited to the following uses as listed in the Table of Permitted Uses:

- (1) _____
- (2) _____
- (3) _____
- (4) _____

Development Conditions

Development of the property shall occur in accordance with the following standards and requirements in addition to those specified in the Zoning Ordinance:

- (1) _____
- (2) _____
- (3) _____
- (4) _____

A Conditional Rezoning Application must be signed by current property owner(s).

I hereby agree to conform to all applicable laws of the Town of Haw River and the State of North Carolina and certify that the information provided is complete and accurate to the best of my knowledge. I acknowledge that by filing this application, representatives from the Town of Haw River may enter the subject property for the purpose of investigation and analysis of this request. Additional signature pages are available upon request.

Respectfully Submitted,

Property Owner Signature

Representative Signature (if applicable)

Name

Name

Mailing Address

Mailing Address

City, State and Zip Code

City, State and Zip Code

Phone Number

Phone Number

TOWN OF HAW RIVER
Additional Tax References and Signatures

Case #: _____

Additional Tax Map References

Further referenced on the Alamance County Tax Maps as:

Tax Map # _____	Block # _____	Lot # _____
Tax Map # _____	Block # _____	Lot # _____
Tax Map # _____	Block # _____	Lot # _____
Tax Map # _____	Block # _____	Lot # _____
Tax Map # _____	Block # _____	Lot # _____
Tax Map # _____	Block # _____	Lot # _____
Tax Map # _____	Block # _____	Lot # _____
Tax Map # _____	Block # _____	Lot # _____

Additional Signatures

I hereby agree to conform to all applicable laws of the Town of Haw River and the State of North Carolina and certify that the information provided is complete and accurate to the best of my knowledge. I acknowledge that by filing this application, representatives from the Town of Haw River may enter the subject property for the purpose of investigation and analysis of this request.

Applicant Signature_____
Applicant Signature_____
Name_____
Name_____
Mailing Address_____
Mailing Address_____
City, State and Zip Code_____
City, State and Zip Code_____
Phone Number_____
Phone Number

TOWN OF HAW RIVER
Additional Conditions

Case #: _____

Additional Use Conditions

Uses of the property shall be limited to the following uses as listed in the Table of Permitted Uses:

- (5) _____
- (6) _____
- (7) _____
- (8) _____
- (9) _____
- (10) _____
- (11) _____

Additional Development Conditions

Development of the property shall occur in accordance with the following standards and requirements in addition to those specified in the Zoning Ordinance:

- (5) _____
- (6) _____
- (7) _____
- (8) _____
- (9) _____
- (10) _____
- (11) _____

(Ord. passed 11-2-15)

§ 155.998 VIOLATIONS.

(A) If any provisions of this chapter are being violated, the Zoning Enforcement Officer shall notify the persons responsible for such violations in writing; indicating the nature of the violation(s). If the actions necessary to correct the violation(s) are not carried out within 30 days of written notification being sent, the violation shall be turned over to the Town Attorney for prosecution. The civil penalty described herein below shall be assessed from the date of receipt of such written notification until such time as compliance is achieved. Each calendar day during which a violation continues shall constitute a separate offense for purposes of the assessment of civil penalties but shall not require more than one 30-day letter.

(B) Any property owner adversely affected by any violation of this chapter may institute injunction, mandamus or other appropriate legal action to prevent the occupancy or use of a building, structure or land in violation of this chapter.

(Ord. passed 11-2-15)

§ 155.999 PENALTY.

(A) Any person violating any provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with G.S. § 14-4. Each day that the violation continues shall constitute a separate offense.

(B) (1) Any person, firm or corporation convicted of violating any provision of §§ 155.225 through 155.250 shall be guilty of a misdemeanor and shall be fined not more than \$50 or imprisoned for not more than 30 days, as provided by G.S. § 14-4. Each calendar day during which a violation continues shall constitute a separate offense.

(2) Pursuant to the provisions of G.S. § 160A-175(c), any person violating any provision of §§ 155.225 through 155.250 may be subject to a civil penalty. Each days' violation shall be treated as a separate offense.

(3) Pursuant to the provisions of G.S. § 160A-175(c), the town may file a civil action to recover said penalty if the offender does not pay said penalty.

(4) Pursuant to the provisions of G.S. § 160A-175(d), the town may also seek any appropriate equitable relief that it deems necessary to ensure the health, safety and welfare of the citizens or the natural resources of the town, including but not limited to civil damages resulting from violation of §§ 155.225 through 155.250.

(5) Pursuant to the provisions of G.S. § 160A-175(e), the town may seek an injunction when, in the judgment of town, the facility is creating an imminent hazard to the health, safety and welfare of the public.

(6) Except as otherwise provided herein, any person, firm, corporation or any other legal entity which owns, leases, occupies, manages, designs, or causes any activity or use of land or structure in violation of this code shall be subject to issuance of a notice of violation (NOV) and the imposition of a civil penalty in the amount of \$250 for the first violation and a separate penalty for each additional violation. For each day said violation is not corrected, a penalty of \$250 per day shall be imposed. The civil penalty shall be assessed from the date of receipt of the NOV until such time as compliance is achieved. The filing of an action to collect penalties incurred pursuant to this section shall not foreclose further proceedings for penalties coming due after the date of the filing of a prior proceeding.

(C) Remedies.

(1) If any subdivision, development and/or land use is found to be in violation of this chapter, the Town Council may, in addition to all other remedies available either in law or in equity, institute a civil penalty as provided for by the zoning ordinance. In addition, the town may bring an action or proceedings to restrain, correct or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business or use in or about the premises. In addition, the N.C. Environmental Management Commission may assess civil penalties in accordance with G.S. § 143-215.6A. Each day that the violation continues shall constitute a separate offense.

(2) If the Zoning Enforcement Officer or other responsible official finds that any of the provisions of this chapter are being violated, he or she shall notify in writing the party responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He or she shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; withhold, deny or revoke a permit or certificate of occupancy; issue a stop work order pursuant to G.S. § 160A-421 or § 153A-261, as applicable, or the North Carolina State Building Code; condition the authorization of any permit or certificate upon the correction of the deficiency, or payment of civil penalties or both, within a specified time of the posting of a compliance security approved by the Zoning Enforcement Officer; or shall take any action authorized by this chapter to ensure compliance with or to prevent violation of its provisions. If a ruling of the Zoning Enforcement Officer is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment. (Ord. passed 11-2-15)

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Haw River - Land Usage

CHAPTER 156: FIRE PREVENTION CODE

Section

- 156.01 Purpose
- 156.02 Definitions
- 156.03 NC Fire Prevention Code adopted by reference
- 156.04 Amendments to code
- 156.05 Compliance
- 156.06 Official copy
- 156.07 Administration
- 156.08 Modifications
- 156.09 Violations of regulations not legalized by oversight of inspector
- 156.10 Appeals

- 156.99 Penalty

§ 156.01 PURPOSE.

The purpose of this chapter is to provide the town with rules and regulations to improve public safety by promoting the control of fire hazards; regulating the installation, use, and maintenance of equipment; regulating the use of structures, premises, and open areas; providing for the abatement of fire hazards; establishing the responsibilities and procedures for code enforcement; and setting forth the standards for compliance and achievement of these objectives.
(Ord. passed 12-5-05)

§ 156.02 DEFINITIONS.

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

FIRE DEPARTMENT. Haw River Fire Department.

FIRE INSPECTOR. Any person employed by the town to enforce this chapter having one of the following types of certificates issued by the North Carolina Code Officials Qualification Board attesting to his or her qualifications to hold such a position:

- (1) A probationary certificate, valid for one year only;
- (2) A standard certificate; or
- (3) A limited certificate subject to specified limitations.

FIRE PREVENTION CODE. The most current edition of this chapter with all state amendments and references.

OPEN BURNING. The burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. ***OPEN BURNING*** does not include road flares, smudge pots and similar devices associated with safety or occupational uses typically considered open flames or recreational fires.

PROHIBITED CONDITIONS. A violation of any order, decision, or determination by the Fire Inspector or any provision of this chapter.

TOWN. Town of Haw River.
(Ord. passed 12-5-05)

§ 156.03 NC FIRE PREVENTION CODE ADOPTED BY REFERENCE.

This chapter shall be known as the town's Fire Prevention Code. The most current edition of the state's Fire Prevention Code and all appendices therein, as adopted and published by the International Code Council and as adopted and amended by the North Carolina Building code Council, is hereby adopted by reference as fully as though set forth herein as the Fire Prevention Code for the town and its extra-territorial jurisdiction.

(Ord. passed 12-5-05; Am. Ord. passed 1-2-07; Am. Ord. passed 5-4-09; Am. Ord. passed 8-1-11)

§ 156.04 AMENDMENTS TO CODE.

Amendments to the code adopted by reference in this chapter, which are from time to time adopted and published by the agencies or organizations referred to herein, shall be effective in the town at the time such amendments are effective and enforceable in the state of North Carolina.

(Ord. passed 12-5-05; Am. Ord. passed 8-1-11)

§ 156.05 COMPLIANCE.

It shall be unlawful for any person or entity to violate this chapter, to permit or maintain such a violation, to refuse to obey any provision thereof, or to fail or refuse to comply with any such provision

or regulation except as variation may be allowed by the action of the Fire Inspector in writing. Proof of such unlawful act or failure shall be deemed prima facie evidence that such act is that of the owner or other person in control of the premises. Prosecution or lack thereof of either the owner, occupant, or the person in charge shall not be deemed to relieve any of the others.

(Ord. passed 12-5-05) Penalty, see § 156.99

§ 156.06 OFFICIAL COPY.

An official copy of the code adopted in this chapter, and official copies of all amendments thereto, shall be kept on file with the town's Fire Inspector. Such copy shall be the official copy of the code and amendments.

(Ord. passed 12-5-05)

§ 156.07 ADMINISTRATION.

(A) The Fire Inspector shall be responsible for the enforcement of this chapter. It shall be the duty of the Fire Inspector to investigate and to recommend to the Fire Chief such additional ordinances, or amendments to existing ordinances, as he or she may deem necessary for safeguarding life and property against fire.

(B) The Fire Inspector shall inspect or cause to be inspected all premises on a periodic basis and shall make such orders as may be necessary for the enforcement of the laws and ordinances governing the same and for safeguarding of life and property from fire.

(C) Whenever the Fire Inspector shall find in any building, or upon any premises or other places, combustible or explosive matter or dangerous accumulations of rubbish or unnecessary accumulations of waste paper, boxes, shavings, or any highly flammable materials especially liable to fire, and which is so situated as to endanger property; or shall find obstructions to or on fire escapes, stairs, passageways, doors, or windows, liable to interfere with the operations of the fire department or egress of occupants in case of fire, he or she shall order the same to be removed or remedied, and such order shall forthwith be complied with by the owner or occupant of such premises or buildings. Any owner or occupant failing to comply with such order within a reasonable period after the service of the said order shall be liable to penalties as hereinafter provided. The service of any such order may be made upon the occupant of the premises to whom it is directed, either by delivering a copy of same to such occupant personally or by delivering the same to and leaving it with any person in charge of the premises. Whenever it may be necessary to serve such an order upon the owner of premises, such order may be served either by delivering to and leaving with the said person a copy of the said order, or, if such owner is absent from the jurisdiction of the Fire Inspector making the order, by mailing such copy by certified mail to the owner's last known post office address.

(D) It shall be unlawful for any person to kindle or maintain, or, authorize to be kindled or maintained any open burning when atmospheric conditions or local circumstances make such fires hazardous, or, when in violation of any official state or local ban on any open burning. The Fire Chief, any of his officers, or the Fire Inspector is authorized to order the extinguishment of any such fire by the person who kindled or is maintaining the fire. In the event the fire is not extinguished, the fire department is authorized to extinguish the fire. The person who kindled or maintained the fire as well as the person who authorized said fire to be kindled or maintained shall be liable to penalties as hereinafter provided. Open flame cooking devices such as charcoal burners or LP gas-fueled cooking devices shall be exempt from this section as long as they are maintained in accordance with this chapter, unless the Fire Inspector deems such operation to be hazardous to life or property from fire.

(E) It shall be unlawful for any person to kindle or maintain, or, authorize to be kindled or maintained any fire for the burning of refuse that is in violation of any regulations of any federal, state, or local agency or organization.

(F) It shall be unlawful for any person to kindle or maintain, or, authorize to be kindled or maintained any open burning during the period of town collection of yard waste each year. The Fire Chief, any of his officers, or the Fire Inspector is authorized to order the extinguishment of any such fire by the person who kindled or is maintaining the fire. In the event the fire is not extinguished, the fire department is authorized to extinguish the fire. The person who kindled or maintained the fire as well as the person who authorized said fire to be kindled or maintained shall be liable to penalties as hereinafter provided.

(Ord. passed 12-5-05) Penalty, see § 156.99

§ 156.08 MODIFICATIONS.

The Fire Inspector shall have the power to modify any of the provisions of this chapter upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of this code; provided, that the spirit of the code shall be observed, public safety secured and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Fire Inspector shall be entered upon the records of the Fire Department and a signed copy shall be furnished the applicant.

(Ord. passed 12-5-05)

§ 156.09 VIOLATIONS OF REGULATIONS NOT LEGALIZED BY OVERSIGHT OF INSPECTOR.

No oversight or dereliction of duty on the part of the Fire Inspector shall be deemed to legalize the violation of any provision of this chapter or any provision of any regulatory code herein adopted.

(Ord. passed 12-5-05)

§ 156.10 RIGHT TO APPEAL.

Unless otherwise provided by law, appeals from any order, decision, or determination by the Fire Inspector pertaining to this chapter shall be taken to the Commissioner of Insurance or other official specified in G.S. § 143-139, by filing a written notice with him or her and with the Fire Department within a period of ten days after the order, decision, or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law. Appeals from any penalty imposed from any order, decision, or determination of the Fire Inspector pertaining to this chapter may be taken to the courts as provided by law.

(Ord. passed 12-5-05)

§ 156.99 PENALTY.

(A) Any person, firm, or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$500 or imprisonment for not more than 30 days as provided by G.S. § 14-4. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within 30 days when not otherwise specified. Each 30 days that prohibited conditions are maintained shall constitute a separate offense.

(B) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions and violators shall be further subject to the provisions of G.S. § 160A-175. Whenever any violation is denominated a misdemeanor under the provisions of this chapter, the town, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved.

(Ord. passed 12-5-05)

CHAPTER 157: PHASE II STORMWATER CODE

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GENERAL PROVISIONS**§ 157.01 TITLE.**

This chapter shall be officially know as “The Phase II Stormwater Code.”
(Ord. passed 4-2-07)

§ 157.02 AUTHORITY.

The town is authorized to adopt this chapter pursuant to state law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; G.S. § 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2006-246; G.S. §§ 160A-174 and 160A-185.

(Ord. passed 4-2-07)

§ 157.03 FINDINGS.

(A) It is hereby determined that:

(1) Development and redevelopment alter the hydrologic response of local watersheds and increases stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint and point source pollution, and sediment transport and deposition, as well as reducing groundwater recharge;

(2) These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology which are harmful to public health and safety as well as to the natural environment; and

(3) These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites.

(B) Further, the Federal Water Pollution Control Act of 1972 (“Clean Water Act”) and federal Phase II Stormwater Rules promulgated under it, as well as rules of the North Carolina Environmental Management Commission promulgated in response to federal Phase II requirements, compel certain urbanized areas, including this jurisdiction, to adopt the minimum stormwater controls such as those included in this chapter.

(C) Therefore, the Town Council establishes this set of water quality and quantity regulations to meet the requirements of state and federal law regarding control of stormwater runoff and discharge.

(Ord. passed 4-2-07)

§ 157.04 PURPOSE.

(A) *General.* The purpose of this chapter is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint and point source pollution associated with new development and redevelopment. It has been determined that proper

management of construction-related and post-development stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, and general welfare, and protect water and aquatic resources.

(B) *Specific.* This chapter seeks to meet its general purpose through the following specific objectives and means:

(1) Establishing decision-making processes for development that protect the integrity of watersheds and preserve the health of water resources;

(2) Requiring that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable for the applicable design storm to reduce flooding, streambank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;

(3) Establishing minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;

(4) Establishing design and review criteria for the construction, function, and use of structural stormwater BMPs that may be used to meet the minimum post-development stormwater management standards;

(5) Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace, riparian buffers, and other conservation areas to the maximum extent practicable;

(6) Establishing provisions for the long-term responsibility for and maintenance of structural and nonstructural stormwater BMPs to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;

(7) Establishing administrative procedures for the submission, review, approval and disapproval of stormwater management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance.

(Ord. passed 4-2-07)

§ 157.05 APPLICABILITY AND JURISDICTION.

(A) *General.* Beginning with and subsequent to its effective date, this chapter shall be applicable to all development and redevelopment, including, but not limited to, site plan applications, and subdivision applications within the corporate limits and extraterritorial jurisdiction of the town, unless exempt pursuant to division (B) of this section.

(B) *Exemptions.*

(1) Development that cumulatively disturbs less than one acre and is not part of a larger common plan of development or sale is exempt from the provisions of this chapter.

(2) Redevelopment that cumulatively disturbs less than one acre and is not part of a larger common plan of development or sale is exempt from the provisions of this chapter.

(3) Development and redevelopment that disturb less than one acre are not exempt if such activities are part of a larger common plan of development or sale, even though multiple, separate or distinct activities take place at different times on different schedules.

(4) Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act, as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from the provisions of this chapter.

(C) *No development or redevelopment without compliance and permit.* No development or redevelopment shall occur except in compliance with the provisions of this chapter or unless exempted. No development for which a permit is required pursuant to this chapter shall occur except in compliance with the provisions, conditions, and limitations of the permit.

(D) *Stormwater Map.*

(1) The provisions of this chapter shall apply within the areas designated on the map titled "Phase II Stormwater Map of Town of Haw River, North Carolina" ("the Stormwater Map"), which is adopted simultaneously herewith. The Stormwater Map and all explanatory matter contained thereon accompanies and is hereby made a part of this chapter.

(2) The Stormwater Map shall be kept on file by the Stormwater Administrator and shall be updated to take into account changes in the land area covered by this chapter and the geographic location of all structural BMPs permitted under this chapter. In the event of a dispute, the applicability of this chapter to a particular area of land or BMP shall be determined by reference to the state statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary ordinances.
(Ord. passed 4-2-07)

§ 157.06 INTERPRETATION.

(A) *Meaning and intent.* All provisions, terms, phrases, and expressions contained in this chapter shall be construed according to the general and specific purposes set forth in § 157.04. If a different or more specific meaning is given for a term defined elsewhere in the town's code of ordinances, the meaning and application of the term in this chapter shall control for purposes of application of this chapter.

(B) *Text controls in event of conflict.* In the event of a conflict or inconsistency between the text of this chapter and any heading, caption, figure, illustration, table, or map, the text shall control.

(C) *Authority for interpretation.* The Stormwater Administrator has authority to determine the interpretation of this chapter. Any person may request an interpretation by submitting a written request to the Stormwater Administrator who shall respond in writing within 30 days. The Stormwater Administrator shall keep on file a record of all written interpretations of this chapter.

(D) *References to statutes, regulations, and documents.* Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the *Stormwater BMP Design Manual*), or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.

(E) *Computation of time.* The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the town, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the town. References to days are calendar days unless otherwise stated.

(F) *Delegation of authority.* Any act authorized by this chapter to be carried out by the Stormwater Administrator of the town may be carried out by his or her designee.

(G) *Usage.*

(1) *Mandatory and discretionary terms.* The words “shall,” “must,” and “will” are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words “may” and “should” are permissive in nature.

(2) *Conjunctions.* Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word “and” indicates that all connected items, conditions, provisions and events apply. The word “or” indicates that one or more of the connected items, conditions, provisions or events apply.

(3) *Tense, plurals, and gender.* Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

(4) *Measurement and computation.* Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site.

(Ord. passed 4-2-07)

§ 157.07 STORMWATER BMP DESIGN MANUAL.

(A) *Reference to the manual of Stormwater Best Management Practices (BMP).*

(1) The Stormwater Administrator shall use the policy, criteria, and information, including technical specifications and standards, in the latest approved edition or revision of the North Carolina Department of the Environment and Natural Resources - Division of Water Quality's approved *Stormwater Best Management Practices Manual* (referred to herein as the *Stormwater BMP Design Manual*). The *Stormwater BMP Design Manual* will serve as the basis for decisions about stormwater permits and about the design, implementation and performance of structural and non-structural stormwater BMPs.

(2) The *Stormwater BMP Design Manual* includes a list of acceptable stormwater treatment practices, including specific design criteria for each stormwater practice. Stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the Phase II laws.

(B) *Relationship of Stormwater BMP Design Manual to other laws and regulations.* If the specifications or guidelines of the *Stormwater BMP Design Manual* are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the *Stormwater BMP Design Manual*.

(C) *Changes to standards and specifications.* If the standards, specifications, guidelines, policies, criteria, or other information in the *Stormwater BMP Design Manual* are amended subsequent to the submittal of an application for approval pursuant to this chapter but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing this chapter with regard to the application.

(Ord. passed 4-2-07)

§ 157.08 RELATIONSHIP TO OTHER LAWS, REGULATIONS AND PRIVATE AGREEMENTS.

(A) *Conflict of laws.* This chapter is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this chapter are in addition to the requirements of any other ordinance, rule, regulation or other provision of law. Where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall control.

(B) *Private agreements.* This chapter is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this chapter are more restrictive or

impose higher standards or requirements than such easement, covenant, or other private agreement, the requirements of this chapter shall govern. Nothing in this chapter shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this chapter. In no case shall the town be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

(Ord. passed 4-2-07)

§ 157.09 SEVERABILITY.

If the provisions of any section, subsection, paragraph, subdivision or clause of this chapter shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this chapter.

(Ord. passed 4-2-07)

§ 157.10 EFFECTIVE DATE AND TRANSITIONAL PROVISIONS.

(A) *Effective date.* This chapter shall take effect on April 2, 2007.

(B) *Final approvals, complete applications.* All development projects for which complete and full preliminary plans were submitted and approved by the town prior to the effective date of this chapter and which remain valid, unexpired, unrevoked and not otherwise terminated at the time of development shall be exempt from complying with all provisions of this chapter dealing with the control and/or management of post-construction runoff, but shall be required to comply with all other applicable provisions.

(C) *Violations continue.* Any violation of provisions existing on the effective date of this chapter shall continue to be a violation under this chapter and be subject to penalties and enforcement under this chapter unless the use, development, construction, or other activity complies with the provisions of this chapter.

(Ord. passed 4-2-07)

§ 157.11 DEFINITIONS.

When used in this chapter, the following words and terms shall have the meaning set forth in this section, unless other provisions of this chapter specifically indicate otherwise.

10-YEAR, 24-HOUR STORM. A stormwater event which occurs on average once every year or statistically has a 10% chance on average of occurring in a given year. The **10-YEAR, 24 HOUR STORM** produces 5.9 inches of rain in the Haw River area.

APPLICATOR. Person who applies fertilizer to the land or the immediate supervisor of such person.

BUILT-UPON AREA (BUA). That portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. **BUILT-UPON AREA** does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

COMMISSION. The North Carolina Environmental Management Commission.

CONSULTANT. Person who is hired to provide professional advice to another person.

DEPARTMENT. The North Carolina Department of Environment and Natural Resources.

DEVELOPMENT. Any land-disturbing activity which adds to or changes the amount of impervious or partially pervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil, other than rebuilding activity that does not qualify as redevelopment.

DIRECTOR. The Director of the Division of Water Quality or the North Carolina Department of Environment and Natural Resources.

DITCH or CANAL. A man-made channel other than a modified natural stream constructed for drainage purposes that is typically dug through inter-stream divide areas. A **DITCH** or **CANAL** may have flows that are perennial, intermittent, or ephemeral and may exhibit hydrological and biological characteristics similar to perennial or intermittent streams.

DIVISION. The Division of Water Quality in the Department.

EPHEMERAL (STORMWATER) STREAM. A feature that carries only stormwater in direct response to precipitation with water flowing only during and shortly after large precipitation events. An **EPHEMERAL STREAM** may or may not have a well-defined channel, the aquatic bed is always above the water table, and stormwater runoff is the primary source of water. An **EPHEMERAL STREAM** typically lacks the biological, hydrological, and physical characteristics commonly associated with the continuous or intermittent conveyance of water.

HIGH-DENSITY PROJECT. Any project that exceeds the low density threshold for dwelling units per acre or built-upon area.

INTERMITTENT STREAM. A well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An ***INTERMITTENT STREAM*** often lacks the biological and hydrological characteristics commonly associated with the conveyance of water.

LARGER COMMON PLAN OF DEVELOPMENT OR SALE. Any area where multiple separate and distinct construction or land-disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

LOW-DENSITY PROJECT. A project that has no more than two dwelling units per acre or 24% built-upon area (BUA) for all residential and non-residential development. A project with an overall density at or below the relevant low-density threshold, but containing areas with a density greater than the overall project density, may be considered low density as long as the project meets or exceeds the post-construction model practices for low-density projects and locates the higher density in upland areas and away from surface waters and drainageways to the maximum extent practicable.

OWNER. The legal or beneficial owner of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. ***OWNER*** shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an ***OWNER***, unless the secured lender is included within the meaning of ***OWNER*** under another description in this definition, such as a management entity.

PERENNIAL STREAM. A well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A ***PERENNIAL STREAM*** exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

RUNOFF. That portion of the precipitation resulting from the 10-year, 24-hour storm that is discharged from the drainage area.

REDEVELOPMENT. Any development on previously-developed land other than a rebuilding activity that results in no net increase in built-upon area and provides equal or greater stormwater control than the previous development.

STORMWATER BMP DESIGN MANUAL. The **STORMWATER BMP DESIGN MANUAL** approved for use in Phase II jurisdictions by the state's Department of the Environment and Natural Resources-Division of Water Quality for the proper implementation of the requirements of the federal Phase II stormwater program. All references herein to the **STORMWATER BMP DESIGN MANUAL** are to the latest published edition or revision.

STRUCTURAL BMP. A physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. **STRUCTURAL BMP** includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. **STRUCTURAL BMP** is synonymous with “structural practice”, “stormwater control facility,” “stormwater control practice,” “stormwater treatment practice,” “stormwater management practice,” “stormwater control measures,” “structural stormwater treatment systems,” and similar terms used in this chapter.

SUBSTANTIAL PROGRESS. For the purposes of determining whether sufficient progress has been made on an approved plan, one or more of the following construction activities toward the completion of a site or subdivision plan shall occur: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than 30 days; or installation and approval of on-site infrastructure; or obtaining a building permit for the construction and approval of a building foundation. **SUBSTANTIAL PROGRESS** for purposes of determining whether an approved plan is null and void is not necessarily the same as “substantial expenditures” used for determining vested rights pursuant to applicable law.

SURFACE WATERS. All water of the state as defined in G.S. § 143-212 except underground waters.
(Ord. passed 4-2-07)

ADMINISTRATION AND PROCEDURES

§ 157.12 STORMWATER ADMINISTRATOR.

(A) *Designation.* Unless otherwise designated by the Town Council, the Stormwater Administrator shall be the Town Manager or his designee. The Stormwater Administrator shall administer and enforce this chapter.

(B) *Powers and duties.* In addition to the powers and duties that may be conferred by other provisions of the town code and other laws, the Stormwater Administrator shall have the following powers and duties under this chapter:

- (1) To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this chapter.
 - (2) To make determinations and render interpretations of this chapter.
 - (3) To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to the Town Council on applications for development or redevelopment approvals.
 - (4) To enforce the provisions of this chapter in accordance with its enforcement provisions.
 - (5) To maintain records, maps, forms and other official materials as relate to the adoption, amendment, enforcement, and administration of this chapter.
 - (6) To provide expertise and technical assistance to the Town Council, upon request.
 - (7) To designate appropriate other person(s) who shall carry out the powers and duties of the Stormwater Administrator.
 - (8) To take any other action necessary to administer the provisions of this chapter.
- (Ord. passed 4-2-07)

§ 157.13 REVIEW PROCEDURES.

(A) *Permit required; must apply for permit.* A stormwater permit is required for all development and redevelopment unless exempt pursuant to this chapter. A permit may only be issued subsequent to a properly submitted and reviewed permit application, pursuant to this section.

(B) *Effect of permit.*

(1) A stormwater permit shall govern the design, installation, and construction of stormwater management and control practices on the site, including structural BMPs and elements of site design for stormwater management other than structural BMPs.

(2) The permit is intended to provide a mechanism for the review, approval, and inspection of the approach to be used for the management and control of stormwater for the development or redevelopment site consistent with the requirements of this chapter, whether the approach consists of structural BMPs or other techniques such as low-impact or low-density design. The permit does not continue in existence indefinitely after the completion of the project; rather, compliance after project construction is assured by the maintenance provisions of this chapter.

(C) *Authority to file applications.* All applications required pursuant to this chapter shall be submitted to the Stormwater Administrator by the land owner or the land owner's duly authorized agent.

(D) *Establishment of application requirements, schedule, and fees.*

(1) *Application contents and form.* The Stormwater Administrator shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. At a minimum, the stormwater permit application shall describe in detail how post-development stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this chapter.

(2) *Submission schedule.* The Stormwater Administrator shall establish a submission schedule for applications, which shall be reviewed and approved by the Town Council. The schedule shall establish deadlines by which complete applications must be submitted for the purpose of ensuring that there is adequate time to review applications; and that the various stages in the review process are accommodated.

(3) *Permit review fees.* The Town Council shall establish permit review fees as well as policies regarding refund of any fees upon withdrawal of an application, and may amend and update the fees and policies from time to time.

(4) *Administrative manual.* For applications required under this chapter, the Stormwater Administrator shall compile the application requirements, submission schedule, fee schedule, a copy of this chapter, and information on how and where to obtain the *Stormwater BMP Design Manual* in an administrative manual, which shall be made available to the public.

(E) *Submittal of completed application.*

(1) Applications shall be submitted to the Stormwater Administrator pursuant to the application submittal schedule in the form established by the Stormwater Administrator, along with the appropriate fee established pursuant to this section.

(2) An application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to this chapter, along with the appropriate fee. If the Stormwater Administrator finds that an application is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a completed application. However, the submittal of an incomplete application shall not suffice to meet a deadline contained in the submission schedule established above.

(F) *Review.* Within 30 working days after a completed application is submitted, the Stormwater Administrator shall review the application and determine whether the application complies with the standards of this chapter.

(1) *Approval.* If the Stormwater Administrator finds that the application complies with the standards of this chapter, the Stormwater Administrator shall approve the application. The Stormwater Administrator may impose conditions of approval as needed to ensure compliance with this chapter. The conditions shall be included as part of the approval.

(2) *Fails to comply.* If the Stormwater Administrator finds that the application fails to comply with the standards of this chapter, the Stormwater Administrator shall notify the applicant and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.

(3) *Revision and subsequent review.*

(a) A complete revised application shall be reviewed by the Stormwater Administrator within 15 working days after its re-submittal and shall be approved, approved with conditions or disapproved.

(b) If a revised application is not re-submitted within 30 calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee for a new submittal.

(c) One re-submittal of a revised application may be submitted without payment of an additional permit review fee. Any re-submittal after the first re-submittal shall be accompanied by a permit review fee additional fee, as established pursuant to this chapter.
(Ord. passed 4-2-07)

§ 157.14 APPLICATIONS FOR APPROVAL.

(A) *Concept plan and consultation meeting.*

(1) Before a stormwater management permit application is deemed complete, the Stormwater Administrator or developer may request a consultation on a concept plan for the post-construction stormwater management system to be utilized in the proposed development project. This consultation meeting should take place at the time of the sketch or preliminary plan of subdivision or other early step in the development process.

(2) The purpose of this meeting is to discuss the post-construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced. Watershed overlay districts and other relevant resource protection plans should be consulted in the discussion of the concept plan.

(3) To accomplish this goal, the following information should be included in the concept plan, which should be submitted in advance of the meeting:

(a) *Existing conditions; proposed site plans.*

1. Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (if available); boundaries of existing predominant vegetation, proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

2. Existing and proposed topography shall be shown at two-foot contour intervals on the tract to be developed and a minimum of 100 feet beyond the property lines. All contour information shall be based on mean sea level and accurate to within one-half of one foot. The benchmark, with its description and the datum, shall be clearly shown on the plan.

(b) *Natural resources inventory.* A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers and other setbacks (such as drinking water well setbacks, septic setbacks, and the like). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development and stormwater management.

(c) *Stormwater management system concept plan.* A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low-impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings.

(B) *Stormwater management permit application.*

(1) The stormwater management permit application shall detail how post-development stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of this chapter, including §§ 157.17 through 157.24. All such plans shall be prepared by a qualified registered North Carolina professional engineer, surveyor, soil scientist or landscape architect, and the engineer, surveyor, soil scientist or landscape architect shall perform services only in their area of competence.

(2) The plans shall contain a signed and sealed statement certifying that the design of all stormwater management facilities and practices will control and treat the runoff generated from one inch of rainfall over the total project area, that the designs and plans are sufficient to comply with applicable standards and policies found in the *Stormwater BMP Design Manual*, and that the designs and plans ensure compliance with this chapter.

(3) The submittal shall include all of the information required in the submittal checklist established by the Stormwater Administrator. Incomplete submittals shall be treated pursuant to § 157.13(E).

(C) *As-built plans and final approval.* Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant shall certify, under seal, that the completed project is in accordance with the approved stormwater management plans and designs and with the requirements of this chapter. The applicant shall submit all of the information required in the as-built submittal checklist established by the Stormwater Administrator. As-built submittals shall be certified by a qualified registered North Carolina professional engineer, surveyor, soil scientist or landscape architect. A final inspection and approval by the Stormwater Administrator shall occur before the release of any performance securities.

(D) *Other permits.* No certificate of compliance or occupancy shall be issued by the town without final as-built plans and a final inspection and approval by the Stormwater Administrator, except where multiple units are served by the stormwater practice or facilities, in which case the town may elect to withhold a percentage of permits or certificates of occupancy until as-built plans are submitted and final inspection and approval has occurred.

(Ord. passed 4-2-07)

§ 157.15 APPROVALS.

(A) *Effect of approval.* Approval authorizes the applicant to go forward with only the specific plans and activities authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.

(B) *Time limit/expiration.*

(1) An approved plan shall become null and void if the applicant has failed to make substantial progress on the site within one year after the date of approval. The Stormwater Administrator may grant a single, one-year extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan.

(2) In granting an extension, the Stormwater Administrator may require compliance with standards adopted since the original application was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights.

(Ord. passed 4-2-07)

§ 157.16 APPEALS.

(A) *Right of appeal.* Any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this chapter made by the Stormwater Administrator may file an appeal to the Board of Adjustment within 30 days.

(B) *Filing of appeal and procedures.*

(1) Appeals shall be taken within the specified time period by filing a notice of appeal and specifying the grounds for appeal on forms provided by the town. The Stormwater Administrator shall forthwith transmit to the Board of Adjustment all documents constituting the record on which the decision appealed from was taken.

(2) The hearing conducted by the Town Council shall be conducted in the nature of a quasi-judicial proceeding with all findings of fact supported by competent, material evidence.

(C) *Review by Superior Court.* The decision of the Board of Adjustment shall be subject to Superior Court review by proceedings in the nature of certiorari. Petition for review by the Superior Court shall be filed with the Clerk of Superior Court within 30 days after the latter of the following:

(1) The decision of the Board of Adjustment is filed; or

(2) A written copy of the decision is delivered to every aggrieved party who has filed a written request for such copy with the Board of Adjustment at the time of its hearing of the case.
(Ord. passed 4-2-07)

STANDARDS**§ 157.17 GENERAL STANDARDS.**

All development and redevelopment to which this chapter applies shall comply with the standards of this subchapter.

(Ord. passed 4-2-07) Penalty, see § 157.99

§ 157.18 DEVELOPMENT STANDARDS FOR LOW-DENSITY PROJECTS.

Low-density projects (no more than two dwelling units per acre or 24% built-upon area for all residential and non-residential development) shall comply with each of the following standards:

(A) Stormwater runoff from the development shall be transported from the development by vegetated conveyances to the maximum extent practicable.

(B) (1) No built-upon area shall be allowed in the floodway (as identified by the Federal Emergency Management Agency in its most recent Flood Insurance Study) or within 50 feet of a perennial stream where no flood hazard has been defined, as specified in the town's Flood Damage Prevention Code (§§ 152.40 and 152.43).

(2) All built-upon area shall be at a minimum of 30 feet landward of all intermittent surface waters. A perennial or intermittent surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233(3)(a) or similar site-specific determination made using division-approved methodology.

(C) The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

(Ord. passed 4-2-07) Penalty, see § 157.99

§ 157.19 DEVELOPMENT STANDARDS FOR HIGH-DENSITY PROJECTS.

(A) High-density projects (any project that exceeds the low density thresholds for dwelling units per acre or built-upon area) shall implement structural stormwater management systems that comply with each of the following standards:

(1) The measures shall be designed to control and treat the stormwater run-off generated by the one inch of rain;

(2) Runoff volume drawdown time shall be a minimum of 48 hours, but not more than 120 hours;

(3) All structural stormwater treatment systems used to meet the requirements of the program shall be designed to have a minimum of 85% average annual removal for total suspended solids (TSS);

(4) General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c), as explained in the *Stormwater BMP Design Manual*;

(5) (a) No built-upon area shall be allowed in the floodway (as identified by the Federal Emergency Management Agency in its most recent Flood Insurance Study) or within 50 feet of a perennial stream where no flood hazard has been defined, as specified in the town's Flood Damage Prevention Code (§§ 152.40 and 152.43).

(b) All built-upon area shall be at a minimum of 30 feet landward of all intermittent surface waters. A perennial or intermittent surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233(3)(a) or similar site-specific determination made using division-approved methodology.

(6) The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

(B) In the event new development or redevelopment has, in the opinion of the Stormwater Administrator or his designee, the potential to cause increased downstream flooding and erosion, a structural stormwater management system will be required that does not allow stormwater to leave the project site at a rate greater than the predevelopment discharge rate for the 10-year, 24-hour storm. (Ord. passed 4-2-07) Penalty, see § 157.99

§ 157.20 STANDARDS FOR STORMWATER CONTROL MEASURES.

(A) *Evaluation according to contents of Stormwater BMP Design Manual.* All stormwater control measures and stormwater treatment practices (also referred to as Best Management Practices, or BMPs) required under this chapter shall be evaluated by the Stormwater Administrator according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the *Stormwater BMP Design Manual*. The Stormwater Administrator shall determine whether proposed BMPs will be adequate to meet the requirements of this chapter.

(B) *Determination of adequacy; presumptions and alternatives.* Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the *Stormwater BMP Design Manual* will be presumed to meet the minimum water quality and quantity performance standards of this chapter. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the *Stormwater BMP Design Manual*, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the

minimum water quality and quantity performance standards of this chapter. The Stormwater Administrator may require the applicant to provide the documentation, calculations, and examples necessary for the Stormwater Administrator to determine whether such an affirmative showing is made.

(C) *Separation from seasonal high water table.* For BMPs that require a separation from the seasonal high-water table, the separation shall be provided by at least 12 inches of naturally occurring soil above the seasonal high-water table.

(Ord. passed 4-2-07)

§ 157.21 DEDICATION OF BMPS, FACILITIES, AND IMPROVEMENTS.

Unless otherwise approved, ownership of any existing or future stormwater management facilities shall remain with the owner of the property or a legally established property owner's association. Such facilities shall meet all the requirements of this chapter and include adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

(Ord. passed 4-2-07)

§ 157.22 VARIANCES.

(A) Any person may petition the town for a variance granting permission to use the person's land in a manner otherwise prohibited by this chapter. To qualify for a variance, the petitioner must show all of the following:

(1) Unnecessary hardships would result from strict application of this chapter.

(2) The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.

(3) The hardships did not result from actions taken by the petitioner.

(4) The requested variance is consistent with the spirit, purpose, and intent of this chapter; will secure public safety and welfare; and will preserve substantial justice.

(B) The town may impose reasonable and appropriate conditions and safeguards upon any variance it grants.

(C) *Statutory exceptions.* Notwithstanding division (A) of this section, exceptions from the 30-foot landward location of built-upon area requirement as well as the deed restrictions and protective covenants requirements shall be granted in any of the following instances:

(1) When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs.

(2) When there is a lack of practical alternatives for a stormwater management facility; a stormwater management pond; or a utility, including, but not limited to, water, sewer, or gas construction and maintenance corridor, as long as it is located 15 feet landward of all perennial and intermittent surface waters and as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs.

(3) A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.

(Ord. passed 4-2-07)

§ 157.23 NUTRIENT SENSITIVE WATERS PROGRAM.

In addition to the standards for stormwater handling set out in the *Stormwater BMP Design Manual*, development and redevelopment shall design and implement the best stormwater practices that reduce nutrient loading, while still meeting the other requirements of this chapter.

(A) *Nutrient management and application program.* This section requires both inorganic fertilizer and organic nutrient application to be performed with the most current state-recognized technical guidance on proper nutrient management.

(B) *Applicability.* This program shall apply to the following persons within the corporate limits and extraterritorial jurisdiction of the town as follows:

(1) Persons who own or manage cropland areas for commercial purposes;

(2) Persons who own or manage commercial ornamental and floriculture areas and greenhouse production areas;

(3) Persons who own or manage golf courses, grassed public recreational lands, grassed road or utility rights-of-way, or other institutional lands totaling at least five acres in size;

(4) Persons hired to apply nutrients to the lands described in divisions (1) through (3) above or to residential, commercial, industrial or institutional properties, if the total area of the properties served exceeds 10 acres. This shall not apply to residential, commercial, or industrial landowners who apply nutrients to their own property.

(5) Nutrient management consultants hired by persons listed in this section to provide nutrient management advice for lands in the town's jurisdiction.

(C) *Requirements.* Persons to whom this section applies shall meet the following requirements:

(1) Any person subject to this rule who applies nutrients to, or who is hired to provide nutrient management advice for, land within the town's jurisdiction shall either:

(a) Attend and complete nutrient management training pursuant to division (C) of this section; or

(b) Complete and properly implement a nutrient management plan for all lands to which they apply or manage the application of nutrients, or for which they provide nutrient management advice, pursuant to division (D) of this section.

(2) Persons who hire an applicator to apply nutrients to the land that they own or manage shall either:

(a) Ensure that the applicator they hire has attended and completed nutrient management training pursuant to division (C) of this section; or

(b) Ensure that the applicator they hire has completed a nutrient management plan for the land that they own or manage pursuant to division (D) of this section; or

(c) Complete a nutrient management plan for the land that they own or manage pursuant to division (D) of this section and ensure that the applicator they hire follows this plan.

(D) *Nutrient management training.* Persons who choose to meet this requirement by completing nutrient management training shall meet the following requirements:

(1) Persons who are subject to this chapter as of its effective date, and persons who become subject to this chapter after its effective date, shall complete training provided by either the Cooperative Extension Service or the North Carolina Department of Environment and Natural Resources - Division of Water Quality within five years and obtain a certificate from the training entity to that effect. Training shall be sufficient to provide participants with an understanding of the value and importance of proper management of nitrogen and phosphorus, and the water quality impacts of poor nutrient management, and the ability to understand and properly carry out a nutrient management plan.

(2) Persons who become subject to this chapter after its effective date shall complete the training provided by either the Cooperative Extension Service or the North Carolina Department of Environment and Natural Resources - Division of Water Quality and obtain a certificate to that effect from the training entity within one year from the date that they become subject verifying completion of training that addresses the elements identified in division (C)(1) above.

(3) Persons who fail to obtain the nutrient management certificate within the required timeframes or who are found by the Stormwater Administrator to have knowingly failed to follow nutrient management requirements as referenced in division (C)(2)(a) through (c) of this section shall develop and properly implement nutrient management plans pursuant to division (E) of this section.

(4) Training certificates must be kept on-site, at the job site, or be produced within 24 hours of a request by the town.

(E) *Nutrient management plans.* Persons who choose to meet the nutrient application requirement by completing and implementing a nutrient management plan shall meet the following requirements:

(1) Persons who are subject to this chapter as of its effective date and persons who become subject to this chapter after its effective date shall develop and implement a nutrient management plan that meets the following standards within five years of the effective date or within 6 months from the date that they become subject, whichever is later.

(a) Nutrient management plans for cropland shall meet the standards and specifications adopted by the NC Soil and Water Conservation Commission, including those found in 15A NCAC 06E .0104 and 15A NCAC 06F .0104, which are incorporated herein by reference, including any subsequent amendments and additions to such rules that are in place at the time that plans are approved by a technical specialist as required under division (D)(2) of this section.

(b) Nutrient management plans for turfgrass shall follow the North Carolina Cooperative Extension Service guidelines in “Water Quality and Professional Lawn Care” (NCCES publication number WQMM-155), “Water Quality and Home Lawn Care” (NCCES publication number WQMM-151), or other equivalent or more stringent guidance distributed by land-grant universities for turfgrass management.

(c) Nutrient management plans for nursery crops and greenhouse production shall follow the Southern Nurserymen's Association guidelines promulgated in “Best Management Practices Guide For Producing Container-Grown Plants” or guidelines distributed by land-grant universities. The materials related to nutrient management plans for turfgrass, nursery crops and greenhouse production are hereby incorporated by reference including any subsequent amendments and editions and are available for inspection at the Department of Environment and Natural Resources Library, 512 North Salisbury Street, Raleigh, North Carolina.

(2) The person who writes the nutrient management plan shall have the plan approved in writing by a technical specialist. Appropriate technical specialists shall be as follows:

(a) Nutrient management plans for cropland using either inorganic fertilizer or organic nutrients shall be approved by a technical specialist designated pursuant to the process and criteria specified in rules adopted by the Soil and Water Conservation Commission for nutrient management planning, including 15A NCAC 06F .0105, excepting sub-item (a)(2) of that rule.

(b) Nutrient management plans for turfgrass and nursery crops and greenhouse production shall be approved by a technical specialist designated by the Soil and Water Conservation Commission pursuant to the process and criteria specified in 15A NCAC 06F .0105, excepting sub-item (a)(2) of that rule. If the Soil and Water Conservation Commission does not designate such specialists, then the Environmental Management Commission shall do so using the same process and criteria.

(3) Nutrient management plans and supporting documents must be kept on-site or be produced within 24 hours of a request by the town.

(Ord. passed 4-2-07) Penalty, see § 157.99

§ 157.24 ON-SITE WASTEWATER TREATMENT SYSTEMS.

For new development and redevelopment that includes the use of on-site wastewater treatment systems, a copy of the approved system permit issued by the Alamance County Environmental Health Department shall be provided to the Stormwater Administrator.

(Ord. passed 4-2-07)

MAINTENANCE

§ 157.25 GENERAL STANDARDS FOR MAINTENANCE.

(A) *Function of BMPs as intended.* The owner of each structural BMP installed pursuant to this chapter shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the structural BMP was designed.

(B) *Annual maintenance inspection and report.* The person responsible for maintenance of any structural BMP installed pursuant to this chapter shall submit to the Stormwater Administrator an annual inspection report from one of the following persons performing services only in their area of competence: a qualified registered North Carolina professional engineer, surveyor, or landscape

architect, soil scientist, aquatic biologist, or person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice inspection and maintenance. The inspection report shall contain all of the following:

- (1) The name and address of the land owner;
- (2) The recorded book and page number of the lot of each structural BMP;
- (3) A statement that an inspection was made of all structural BMPs;
- (4) The date the inspection was made;
- (5) A statement that all inspected structural BMPs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this chapter; and
- (6) The original signature and seal of the engineer, surveyor, or landscape architect.

(C) All inspection reports shall be on forms supplied by the Stormwater Administrator. An original inspection report shall be provided to the Stormwater Administrator beginning one year from the date of as-built certification and each year thereafter on or before the date of the as-built certification. (Ord. passed 4-2-07) Penalty, see § 157.99

§ 157.26 OPERATION AND MAINTENANCE AGREEMENT.

(A) In general.

(1) Prior to the conveyance or transfer of any lot or building site to be served by a structural BMP pursuant to this chapter, and prior to issuance of any permit for development or redevelopment requiring a structural BMP pursuant to this chapter, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the structural BMP. Until the transference of all property, sites, or lots served by the structural BMP, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

(2) The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the structural BMP, and shall state the terms, conditions, and schedule of maintenance for the structural BMP. In addition, it shall grant to the town a right of entry in the event that the Stormwater Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural BMP; however, in no case shall the right of entry, of itself, confer an obligation on the town to assume responsibility for the structural BMP.

(3) The operation and maintenance agreement must be approved by the Stormwater Administrator prior to plan approval, and it shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. A copy of the recorded maintenance agreement shall be given to the Stormwater Administrator within 14 days following its recordation.

(B) *Special requirement for homeowners' and other associations.* For all structural BMPs required pursuant to this chapter and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:

(1) Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.

(2) Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the structural BMPs. If structural BMPs are not performing adequately or as intended or are not properly maintained, the town, in its sole discretion, may remedy the situation, and in such instances the town shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the structural BMPs, provided that the town shall first consent to the expenditure.

(3) Both developer contribution and annual sinking funds shall fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever shall first occur, the developer shall pay into the escrow account an amount equal to 15% of the initial construction cost of the structural BMPs. Two-thirds of the total amount of sinking fund budget shall be deposited into the escrow account within the first five years and the full amount shall be deposited within ten years following initial construction of the structural BMPs. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.

(4) The percent of developer contribution and lengths of time to fund the escrow account may be varied by the town depending on the design and materials of the stormwater control and management facility.

(5) Granting to the town a right of entry to inspect, monitor, maintain, repair, and reconstruct structural BMPs.

(6) Allowing the town to recover from the association and its members any and all costs the town expends to maintain or repair the structural BMPs or to correct any operational deficiencies. Failure to pay the town all of its expended costs, after 45 days written notice, shall constitute a breach

of the agreement. In case of a deficiency, the town shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both. Interest, collection costs, and attorney fees shall be added to the recovery.

(7) A statement that this agreement shall not obligate the town to maintain or repair any structural BMPs, and the town shall not be liable to any person for the condition or operation of structural BMPs.

(8) A statement that this agreement shall not in any way diminish, limit, or restrict the right of the town to enforce any of its ordinances as authorized by law.

(9) A provision indemnifying and holding harmless the town for any costs and injuries arising from or related to the structural BMP, unless the town has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.

(Ord. passed 4-2-07) Penalty, see § 157.99

§ 157.27 INSPECTION PROGRAM.

(A) Inspections and inspection programs by the town may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in BMPs; and evaluating the condition of BMPs.

(B) If the owner or occupant of any property refuses to permit such inspection, the Stormwater Administrator shall proceed to obtain an administrative search warrant pursuant to G.S. § 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the Stormwater Administrator while carrying out his or her official duties.

(Ord. passed 4-2-07) Penalty, see § 157.99

§ 157.28 PERFORMANCE SECURITY FOR INSTALLATION AND MAINTENANCE.

(A) *May be required.* The town may, at its discretion, require the submittal of a performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the structural BMPs are:

(1) Installed by the permit holder as required by the approved stormwater management plan; and/or

(2) Maintained by the owner as required by the operation and maintenance agreement.

(B) *Amount.*

(1) *Installation.* The amount of an installation performance security shall be the total estimated construction cost of the BMPs approved under the permit, plus 25%.

(2) *Maintenance.* The amount of a maintenance performance security shall be the equal to 40% of the total estimated construction cost of the BMP approved under the permit.

(C) *Uses of performance security.*

(1) *Forfeiture provisions.* The performance security shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant or owner in accordance with this chapter, approvals issued pursuant to this chapter, or an operation and maintenance agreement established pursuant to this chapter.

(2) *Default.* Upon default of the owner to construct, maintain, repair and, if necessary, reconstruct any structural BMP in accordance with the applicable permit or operation and maintenance agreement, the Stormwater Administrator shall obtain and use all or any portion of the security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the owner to comply with the permit or maintenance agreement. In the event of a default triggering the use of installation performance security, the town shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance.

(3) *Costs in excess of performance security.* If the town takes action upon such failure by the applicant or owner, the town may collect from the applicant or owner the difference between the amount of the reasonable cost of such action and the amount of the security held, in addition to any other penalties or damages due.

(4) *Refund.* Within 60 days of the final approval, the installation performance security shall be refunded to the applicant or terminated, with the exception of any amount attributable to the cost (plus 25%) of landscaping installation and ongoing maintenance associated with the BMPs covered by the security. Any such landscaping shall be inspected one year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the financial security attributable to landscaping shall be released.

(Ord. passed 4-2-07)

§ 157.29 NOTICE TO OWNERS.

(A) *Deed recordation and indications on plat.* The applicable operations and maintenance agreement pertaining to every structural BMP shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement shall be recorded with the county Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.

(B) *Signage.* Where appropriate in the determination of the Stormwater Administrator to assure compliance with this chapter, structural BMPs shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign shall be maintained so as to remain visible and legible.

(Ord. passed 4-2-07) Penalty, see § 157.99

§ 157.30 RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES.

The owner of each structural BMP shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the Stormwater Administrator.

(Ord. passed 4-2-07) Penalty, see § 157.99

§ 157.31 NUISANCE.

The owner of each stormwater BMP, whether structural or non-structural BMP, shall maintain it so as not to create or result in a nuisance condition.

(Ord. passed 4-2-07) Penalty, see § 157.99

§ 157.32 MAINTENANCE EASEMENT.

Every structural BMP installed pursuant to this chapter shall be made accessible for adequate maintenance and repair by a maintenance easement. This access maintenance easement shall have a minimum width of 20 feet, a maximum slope of 15%, be connected to public right-of-way, be cleared, and be traversable by construction equipment. The easement shall be recorded and its terms shall specify who may make use of the easement and for what purposes.

(Ord. passed 4-2-07) Penalty, § 157.99

ILLICIT DISCHARGES**§ 157.45 TITLE.**

This subchapter shall be officially known as “The Phase II Stormwater Illicit Discharge Detection and Elimination Regulations.”

(Ord. passed 1-2-07)

§ 157.46 AUTHORITY.

The town is authorized to adopt this subchapter pursuant to state law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; G.S. § 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2006-246; G.S. §§ 160A-174 and 160A-185.

(Ord. passed 1-2-07)

§ 157.47 PURPOSE.

The purpose of this subchapter is to provide for the health, safety, and general welfare of the citizens of the town through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This subchapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this subchapter are:

(A) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.

(B) To prohibit illicit connections and discharges to the municipal separate storm sewer system.

(C) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this subchapter.

(Ord. passed 1-2-07)

§ 157.48 STORMWATER ADMINISTRATOR.

(A) *Designation.* A Stormwater Administrator shall be designated by the Town Manager to administer and enforce this subchapter.

(B) *Powers and duties.* The Stormwater Administrator shall have the following powers and duties under this subchapter:

(1) To make determinations and render interpretations of this subchapter.

(2) To enforce the provisions of this subchapter in accordance with its enforcement provisions.

(3) To maintain records, maps, and official materials as relate to the adoption, amendment, enforcement, or administration of this subchapter.

(4) To designate appropriate other person(s) who shall carry out the powers and duties of the Stormwater Administrator.

(5) To take any other action necessary to administer the provisions of this subchapter.
(Ord. passed 1-2-07)

§ 157.49 DEFINITIONS.

For the purposes of this subchapter, the following shall mean:

BEST MANAGEMENT PRACTICES (BMPS). Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

HAZARDOUS MATERIALS. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLEGAL DISCHARGE. Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in the illicit discharges section of this subchapter.

ILLICIT CONNECTIONS. An ***ILLICIT CONNECTION*** is defined as either of the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

INDUSTRIAL ACTIVITY. Activities subject to NPDES Industrial Permits as defined in 40 CFR 122.26(b)(14).

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). Pursuant to 40 CFR 122.26(b)(8) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures or storm drains):

(1) Owned or operated by a town, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, that discharges to waters of the United States or waters of the state;

(2) Designed or used for collecting or conveying stormwater;

(3) Which is not a combined sewer; and

(4) Which is not part of a publicly-owned treatment works (POTW) as defined in 40 CFR 122.2.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT. A permit issued by the Department of Environment and Natural Resources, Division of Water Quality that authorizes the discharge of pollutants to waters of the state, whether the permit is applicable on an individual, group, or general area-wide basis.

NON-STORMWATER DISCHARGE. Any discharge to the storm drain system that is not composed entirely of stormwater.

PERSON. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

STORMWATER. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

WASTEWATER. Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

(Ord. passed 1-2-07)

§ 157.50 ILLICIT DISCHARGES AND CONNECTIONS.

(A) (1) *Illicit discharges.* No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, the waters of the state, or upon the land in manner and amount that the substance is likely to reach a stormwater conveyance or the waters of the state, any liquid, solid, gas, or other substance, other than stormwater; provided that non-stormwater discharges associated with the following activities are allowed and provided that they do not significantly impact water quality:

- (a) Water line flushing;
- (b) Landscape irrigation;
- (c) Diverted stream flows;
- (d) Rising ground waters;
- (e) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));

- (f) Uncontaminated pumped ground water;
- (g) Discharges from potable water sources;
- (h) Foundation drains;
- (i) Air conditioning condensation;
- (j) Irrigation water;
- (k) Springs;
- (l) Water from crawl space pumps;
- (m) Footing drains;
- (n) Flows from emergency fire fighting;
- (o) Lawn watering;
- (p) Individual residential car washing;
- (q) Flows from riparian habitats and wetlands;
- (r) Dechlorinated swimming pool discharges;
- (s) Street wash water; and

(t) Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the state, and provided that any such discharges to the municipal separate storm sewer system shall be authorized by the town.

(2) Prohibited substances include but are not limited to: oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter.

(B) (1) *Illicit connections.*

(a) Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in division (A) above, are unlawful. Prohibited connections include, but are not limited to: floor drains, wastewater from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and wastewater from septic systems.

(b) Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one year following the effective date of this subchapter. However, the one-year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.

(c) Where it is determined that said connection:

1. May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat; or

2. Was made in violation of any applicable regulation or ordinance, other than this section.

(2) The Stormwater Administrator shall designate the time within which the connection shall be removed. In setting the time limit for compliance, the Stormwater Administrator shall take into consideration:

(a) The quantity and complexity of the work;

(b) The consequences of delay;

(c) The potential harm to the environment, to the public health, and to public and private property; and

(d) The cost of remedying the damage.

(C) *Spills.*

(1) Spills or leaks of polluting substances released, discharged to, or having the potential to be released or discharged to the stormwater conveyance system, shall be contained, controlled, collected, and properly disposed. All affected areas shall be restored to their pre-existing condition.

(2) Persons in control of the polluting substances immediately prior to their release or discharge, and persons owning the property on which the substances were released or discharged, shall immediately notify the Fire Department of the release or discharge, as well as making any required notifications under state and federal law. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by state or other law.

(D) *Industrial or construction activity discharges.* Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the town prior to the allowing of discharges to the MS4.

(Ord. passed 1-2-07)

§ 157.51 RIGHT OF ENTRY.

(A) *Authority to inspect.* Whenever necessary to make an inspection to enforce any provision of this subchapter, or whenever the Stormwater Administrator has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this subchapter, the Stormwater Administrator may enter such premises at all reasonable times to inspect the same and to inspect and copy records related to stormwater compliance. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the town is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

(B) *Authority to sample, establish sampling devices, and test.* During any inspection as provided herein, the Stormwater Administrator may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities.

(Ord. passed 1-2-07)

§ 157.52 ENFORCEMENT.

(A) (1) *Notice of violation.* Whenever the Stormwater Administrator finds that a person has violated a prohibition or failed to meet a requirement of this subchapter, the Stormwater Administrator may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (e) Payment of a fine to cover administrative and remediation costs; and
- (f) The implementation of source control or treatment BMPs.

(2) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the town or a contractor designated by the Stormwater Administrator and the expense thereof shall be charged to the violator.

(B) *Violations deemed a public nuisance.* Illicit discharges and illicit connections which exist within the town limits and extra-territorial jurisdiction are hereby found, deemed, and declared to be dangerous or prejudiced to the public health or public safety and are found, deemed, and declared to be public nuisances and may be summarily abated or restored by the town at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the town. (Ord. passed 1-2-07)

ENFORCEMENT AND VIOLATIONS

§ 157.53 ENFORCEMENT AND VIOLATIONS.

(A) *Authority to enforce.* The provisions of §§ 157.01 through 157.32 shall be enforced by the Stormwater Administrator, his or her designee, or any authorized agent of the town. Whenever this section refers to the Stormwater Administrator, it includes his or her designee as well as any authorized agent of the town.

(B) *Violation unlawful.* Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by §§ 157.01 through 157.32, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to §§ 157.01 through 157.32, is unlawful and shall constitute a violation of §§ 157.01 through 157.32.

(C) *Each day a separate offense.* Each day that a violation continues shall constitute a separate and distinct violation or offense.

(D) *Responsible persons/entities.* Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, practice, or condition in violation of this chapter shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this chapter, or fails to take appropriate action, so that a violation of this chapter results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs. For the purposes of this chapter, responsible person(s) shall include but not be limited to:

(1) *Person maintaining condition resulting in or constituting violation.* An architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of §§ 157.01 through 157.32, or fails to take appropriate action, so that a violation of this chapter results or persists.

(2) *Responsibility for land or use of land.* The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development or redevelopment of the property.

(Ord. passed 4-2-07)

§ 157.54 REMEDIES.

The remedies and penalties provided for violations of §§ 157.01 through 157.32, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

(A) *Remedies.*

(1) *Withholding of certificate of occupancy.* The Stormwater Administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

(2) *Disapproval of subsequent permits and development approvals.* As long as a violation of this chapter continues and remains uncorrected, the Stormwater Administrator or other authorized agent may withhold, and the Planning Board of the town may disapprove, any request for permit or development approval or authorization provided for by §§ 157.01 through 157.32 or the Planning Board of the town for the land on which the violation occurs.

(3) *Injunction, abatements, and the like.* The Town Attorney, with the authorization of the Town Council, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of §§ 157.01 through 157.32. Any person violating §§ 157.01 through 157.32 shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

(4) *Correction as public health nuisance, costs as lien, and the like.* If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by G.S. § 160A-193, the Stormwater Administrator, with the authorization of the Town Council, may cause the violation to be corrected and the costs to be assessed as a lien against the property.

(5) *Stop work order.* The Stormwater Administrator may issue a stop work order to the person(s) violating §§ 157.01 through 157.32. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.
(Ord. passed 4-2-07)

§ 157.55 PROCEDURES.

(A) *Initiation/complaint.* Whenever a violation of §§ 157.01 through 157.32 occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the Stormwater Administrator, who shall record the complaint. The complaint shall be investigated promptly by the Stormwater Administrator.

(B) *Inspection.* The Stormwater Administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with §§ 157.01 through 157.32.

(C) *Notice of violation and order to correct.*

(1) When the Stormwater Administrator finds that any building, structure, or land is in violation of this chapter, the Stormwater Administrator shall notify, in writing, the property owner or other person violating §§ 157.01 through 157.32. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

(2) The Stormwater Administrator may deliver the notice of violation and correction order personally, by the Town Police Department, Town Planning Department, by certified or registered mail, return receipt requested, or by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure.

(3) If a violation is not corrected within a reasonable period of time, as provided in the notification, the Stormwater Administrator may take appropriate action under this chapter to correct and abate the violation and to ensure compliance with this chapter.

(D) *Extension of time.* A person who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the Stormwater Administrator a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Stormwater Administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 30 days. The Stormwater Administrator may grant 15-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating §§ 157.01 through 157.32. The Stormwater Administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

(E) *Enforcement after time to correct.* After the time has expired to correct a violation, including any extension(s) if authorized by the Stormwater Administrator, the Stormwater Administrator shall determine if the violation is corrected. If the violation is not corrected, the Stormwater Administrator may act to impose one or more of the remedies and penalties authorized by §§ 157.01 through 157.32.

(F) *Emergency enforcement.* If delay in correcting a violation would seriously threaten the effective enforcement of this chapter or pose an immediate danger to the public health, safety, or welfare, then the Stormwater Administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Stormwater Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by §§ 157.01 through 157.32. (Ord. passed 4-2-07)

§ 157.99 PENALTY.

(A) Any person who violates the provisions of this chapter for which no other penalty is provided shall be subject to the penalty set forth in § 10.99.

(B) (1) *Civil penalties.* Violation of §§ 157.01 through 157.32 may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days after notice of the violation is issued by the Stormwater Administrator. Civil penalties may be assessed up to the full amount of penalty to which the town is subject for violations of its Phase II Stormwater permit.

(2) *Criminal penalties.* Violation of §§ 157.01 through 157.32 may be enforced as a misdemeanor subject to the maximum fine permissible under state law. (Ord. passed 4-2-07)

CHAPTER 158: RIPARIAN BUFFER PROTECTION

Section

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- 158.02 Purpose and intent
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§ 158.01 AUTHORITY.

This chapter is adopted pursuant to the authority vested in the Town of Haw River by the Session Laws and the General Statutes of North Carolina, particularly Session Law 2009-216 (House Bill 239), Session Law 2009-484 (Senate Bill 838), G.S. §§ 153A-121, 153A-140, Chapter 153A, Article 18, §§ 160A-174, 160A-193, Chapter 160A, Article 19, and any special legislation enacted by the General Assembly for the Town of Haw River.
(Ord. passed 11-1-10)

§ 158.02 PURPOSE AND INTENT.

(A) The purposes of the Town of Haw River in adopting this chapter are to protect and preserve existing riparian buffers throughout the Jordan Watershed as generally described in Rule 15A NCAC 02B .0262 (Jordan Water Supply Nutrient Strategy: Purpose and Scope), in order to maintain their nutrient removal and stream protection functions. Additionally this chapter will help protect the water supply uses of Jordan Reservoir and of designated water supplies throughout the Jordan Watershed.

(B) Buffers adjacent to streams provide multiple environmental protection and resource management benefits. Forested buffers enhance and protect the natural ecology of stream systems, as well as water quality through bank stabilization, shading, and nutrient removal. They also help to minimize flood damage in flood-prone areas. Well-vegetated streamside riparian areas help to remove nitrogen and prevent sediment and sediment-bound pollutants such as phosphorous from reaching the streams. (Ord. passed 11-1-10)

§ 158.03 TITLE.

This chapter shall be known as the "Town of Haw River Riparian Buffer Protection Ordinance". (Ord. passed 11-1-10)

§ 158.04 JURISDICTION.

This chapter shall be applied to all land in the planning jurisdiction of the Town of Haw River. (Ord. passed 11-1-10)

§ 158.05 APPLICABILITY.

This chapter applies to all landowners and other persons conducting activities in the area described in § 158.04, with the exception of activities conducted under the authority of the state, the United States, multiple jurisdictions, or local units of government, and forest harvesting and agricultural activities. The NC Division of Water Quality shall administer the requirements of Rule 15A NCAC 02B .0267 and .0268 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers and Mitigation of Existing Riparian Buffers, respectively) for these activities. (Ord. passed 11-1-10)

§ 158.06 RELATION TO OTHER ORDINANCES.

The requirements of this chapter shall supersede all locally implemented buffer requirements stated in Rules 15A NCAC 02B .0214 through .0216 as applied to WS-II, WS-III, and WS-IV waters in the Jordan Watershed. If the provisions of this chapter otherwise conflict with the provisions of any other validly enforceable ordinance(s) or laws, the most stringent provisions shall control. This chapter is not intended to interfere with, abrogate, or annul any other ordinance, rule, regulation, or other provision of law. (Ord. passed 11-1-10)

§ 158.07 RIPARIAN AREA PROTECTION WITHIN THE JORDAN RESERVOIR WATERSHED.

(A) *Buffers protected.* The following minimum criteria shall be used for identifying regulated buffers:

(1) This chapter shall apply to activities conducted within, or outside of with hydrologic impacts in violation of the diffuse flow requirements set out in division (E) below, upon 50-foot wide riparian buffers directly adjacent to surface waters in the Jordan Watershed (intermittent streams, perennial streams, lakes, reservoirs and ponds), excluding wetlands.

(2) Wetlands adjacent to surface waters or within 50 feet of surface waters shall be considered as part of the riparian buffer but are regulated pursuant to Rules 15A NCAC 2B .0230 and .0231, Rules 15A NCAC 2H .0500, 15A NCAC 2H .1300, and Sections 401 and 404 of the Federal Water Pollution Control Act.

(3) For the purpose of this chapter, a surface water is defined as being present if the feature is approximately shown on any of the following:

(a) The most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture.

(b) The most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS).

(c) A map approved by the Geographic Information Coordinating Council and by the NC Environmental Management Commission. Prior to approving a map under this item, the Commission shall provide a 30-day public notice and opportunity for comment. Alternative maps approved by the Commission shall not be used for buffer delineation on projects that are existing and ongoing within the meaning of division (C) below.

(4) Where the specific origination point of a stream regulated under this item is in question, upon request of the NC Division of Water Quality or another party, the Town of Haw River shall make an on-site determination. A Town of Haw River representative who has successfully completed the Division's Surface Water Identification Training Certification course, its successor, or other equivalent training curriculum approved by the Division, shall establish that point using the latest version of the Division publication, *Identification Methods for the Origins of Intermittent and Perennial Streams*, available at http://h2o.enr.state.nc.us/nwetlands/documents/NC_Stream_ID_Manual.pdf or from the NC Division of Water Quality - c/o 401 Oversight Express Permitting Unit, or its successor. The Town of Haw River may accept the results of a site assessment made by another party who meets these criteria. Any disputes over on-site determinations made according to this item shall be referred to the Director

of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor, in writing. The Director's determination is subject to review as provided in G.S. Chapter 150B, Articles 3 and 4.

(5) Riparian buffers protected by this chapter shall be measured pursuant to division (D) below.

(6) Parties subject to this chapter shall abide by all state rules and laws regarding waters of the state including but not limited to Rules 15A NCAC 2B .0230 and .0231, Rules 15A NCAC 2H .0500, 15A NCAC 2H .1300, and Sections 401 and 404 of the Federal Water Pollution Control Act.

(7) No new clearing, grading, or development shall take place nor shall any new building permits be issued in violation of this chapter.

(B) *Exemption based on on-site determination.* When a landowner or other affected party including the Division believes that the maps have inaccurately depicted surface waters, he or she shall consult the Town of Haw River. Upon request, a Town of Haw River representative who has successfully completed the Division of Water Quality's Surface Water Identification Training Certification course, its successor, or other equivalent training curriculum approved by the Division, shall make an on-site determination. The Town of Haw River may also accept the results of site assessments made by other parties who have successfully completed such training. Any disputes over on-site determinations shall be referred to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor, in writing. A determination of the Director as to the accuracy or application of the maps is subject to review as provided in G.S. Chapter 150B, Articles 3 and 4. Surface waters that appear on the maps shall not be subject to these buffer requirements if a site evaluation reveals any of the following cases:

(1) Man-made ponds and lakes that are not part of a natural drainage way that is classified in accordance with 15A NCAC 2B .0100, including ponds and lakes created for animal watering, irrigation, or other agricultural uses. (A pond or lake is part of a natural drainage way when it is fed by an intermittent or perennial stream or when it has a direct discharge point to an intermittent or perennial stream.)

(2) Ephemeral streams.

(3) The absence on the ground of a corresponding intermittent or perennial stream, lake, reservoir, or pond.

(4) Ditches or other man-made water conveyances, other than modified natural streams.

(C) *Exemption when existing uses are present and ongoing.* This chapter shall not apply to uses that are existing and ongoing; however, this chapter shall apply at the time an existing, ongoing use is changed to another use. Change of use shall involve the initiation of any activity that does not meet either of the following criteria for existing, ongoing activity:

(1) It was present within the riparian buffer as of the effective date of this chapter and has continued to exist since that time. Existing uses shall include agriculture, buildings, industrial facilities, commercial areas, transportation facilities, maintained lawns, utility lines and on-site sanitary sewage systems, any of which involve either specific, periodic management of vegetation or displacement of vegetation by structures or regular activity. Only the portion of the riparian buffer occupied by the footprint of the existing use is exempt from this chapter. Change of ownership through purchase or inheritance is not a change of use. Activities necessary to maintain uses are allowed provided that the site remains similarly vegetated, no impervious surface is added within 50 feet of the surface water where it did not previously exist as of the effective date of this chapter, and existing diffuse flow is maintained. Grading and revegetating Zone Two is allowed provided that the health of the vegetation in Zone One is not compromised, the ground is stabilized and existing diffuse flow is maintained.

(2) Projects or proposed development that are determined by the Town of Haw River to meet at least one of the following criteria:

(a) Project requires a 401 Certification/404 Permit and these were issued prior to the effective date this chapter, and prior to the effective date of this chapter;

(b) Projects that require a state permit, such as landfills, NPDES wastewater discharges, land application of residuals and road construction activities, have begun construction or are under contract to begin construction and had received all required state permits and certifications prior to the effective date of this chapter;

(c) Projects that are being reviewed through the Clean Water Act Section 404/National Environmental Policy Act Merger 01 Process (published by the US Army Corps of Engineers and Federal Highway Administration, 2003) or its immediate successor and that have reached agreement with DENR on avoidance and minimization by the effective date of this chapter;

(d) Projects that are not required to be reviewed by the Clean Water Act Section 404/National Environmental Policy Act Merger 01 Process (published by the US Army Corps of Engineers and Federal Highway Administration, 2003) or its immediate successor if a Finding of No Significant Impact has been issued for the project and the project has the written approval of the Town of Haw River prior to the effective date of this chapter;

(e) Projects that have a vested right per G.S. § 160A-385.1.

(D) *Zones of the riparian buffer.* The protected riparian buffer shall have two zones as follows:

(1) Zone One shall consist of a vegetated area that is undisturbed except for uses provided for in the Table of Uses, § 158.08(B). The location of Zone One shall be as follows:

(a) For intermittent and perennial streams, Zone One shall begin at the top of the bank and extend landward a distance of 30 feet on all sides of the surface water, measured horizontally on a line perpendicular to a vertical line marking the top of the bank.

(b) For ponds, lakes and reservoirs located within a natural drainage way, Zone One shall begin at the normal water level and extend landward a distance of 30 feet, measured horizontally on a line perpendicular to a vertical line marking the normal water level.

(2) Zone Two shall consist of a stable, vegetated area that is undisturbed except for uses provided for in the Table of Uses, § 158.08(B). Grading and revegetating in Zone Two is allowed provided that the health of the vegetation in Zone One is not compromised. Zone Two shall begin at the outer edge of Zone One and extend landward 20 feet as measured horizontally on a line perpendicular to the surface water. The combined width of Zones One and Two shall be 50 feet on all sides of the surface water.

(E) *Diffuse flow requirements.* Diffuse flow of runoff shall be maintained in the riparian buffer by dispersing concentrated flow prior to its entry into the buffer and reestablishing vegetation as follows:

(1) Concentrated runoff from new ditches or man-made conveyances shall be converted to diffuse flow at non-erosive velocities before the runoff enters Zone Two of the riparian buffer;

(2) Periodic corrective action to restore diffuse flow shall be taken as necessary and shall be designed to impede the formation of erosion gullies; and

(3) As set out in division (D) above and § 158.08(B), the zones of the riparian buffer and Table of Uses respectively, no new stormwater conveyances are allowed through the buffers except for those specified in the Table of Uses, § 158.08(B), addressing stormwater management ponds, drainage ditches, roadside ditches, and stormwater conveyances.

(Ord. passed 11-1-10)

§ 158.08 POTENTIAL USES AND ASSOCIATED REQUIREMENTS.

(A) *Approval for new development.* Town of Haw River shall issue an approval for new development only if the development application proposes to avoid impacts to riparian buffers defined in § 158.07(A) of this chapter, or where the application proposes to impact such buffers, it demonstrates that the applicant has done the following, as applicable:

(1) Determined the activity is exempt from requirements of this chapter;

(2) Received an authorization certificate from the Town of Haw River pursuant to § 158.09(A) of this chapter;

(3) For uses designated as allowable with mitigation in the Table of Uses in division (B), received approval of mitigation plan pursuant to § 158.09(C) of this chapter; and

(4) Received a variance pursuant to § 158.09(B).

(B) *Table of uses.* The following chart sets out potential new uses within the buffer, or outside the buffer with impacts on the buffer, and categorizes them as exempt, allowable, or allowable with mitigation. All uses not categorized as exempt, allowable, or allowable with mitigation are considered prohibited and may not proceed within the riparian buffer or outside the buffer if the use would impact the buffer, unless a variance is granted pursuant to § 158.09(C) of this chapter, variances. The requirements for each category are given in division (C) of this section following the Table of Uses.

Use	Exempt *	Allowable *	Allowable with Mitigation*
Access trails: Pedestrian access trails leading to the surface water, docks, fishing piers, boat ramps and other water dependent activities:			
Pedestrian access trails that are restricted to the minimum width practicable and do not exceed four feet in width of buffer disturbance, and provided that installation and use does not result in removal of trees as defined in this chapter and no impervious surface is added to the riparian buffer.	X		
Pedestrian access trails that exceed four feet in width of buffer disturbance, the installation or use results in removal of trees as defined in this chapter or impervious surface is added to the riparian buffer.		X	
Airport facilities:			
Airport facilities that impact equal to or less than 150 linear feet or one-third of an acre of riparian buffer.		X	
Airport facilities that impact greater than 150 linear feet or one-third of an acre of riparian buffer.			X
Activities necessary to comply with FAA requirements (e.g. radar uses or landing strips). ¹		X	
Archaeological activities.	X		
Bridges		X	
Canoe access provided that installation and use does not result in removal of trees as defined in this chapter and no impervious surface is added to the buffer.	X		

Use	Exempt *	Allowable *	Allowable with Mitigation*
Dam maintenance activities:			
Dam maintenance activities that do not cause additional buffer disturbance beyond the footprint of the existing dam or those covered under the U.S. Army Corps of Engineers Nationwide Permit No. 3.	X		
Dam maintenance activities that do cause additional buffer disturbance beyond the footprint of the existing dam or those not covered under the U.S. Army Corps of Engineers Nationwide Permit No. 3.		X	
Drainage ditches, roadside ditches and stormwater conveyances through riparian buffers:			
New stormwater flows to existing drainage ditches, roadside ditches, and stormwater conveyances provided flows do not alter or result in the need to alter the conveyance and are managed to minimize the sediment, nutrients and other pollution that convey to waterbodies.	X		
Realignment of existing roadside drainage ditches retaining the design dimensions, provided that no additional travel lanes are added and the minimum required roadway typical section is used based on traffic and safety considerations.		X	
New or altered drainage ditches, roadside ditches and stormwater outfalls provided that a stormwater management facility is installed to control nutrients and attenuate flow before the conveyance discharges through the riparian buffer.		X	
New drainage ditches, roadside ditches and stormwater conveyances applicable to linear projects that do not provide a stormwater management facility due to topography constraints provided that other practicable BMPs are employed.			X
Driveway crossings of streams and other surface waters subject to this chapter:			
Driveway crossings on single family residential lots that disturb equal to or less than 25 linear feet or 2,500 square feet of riparian buffer.	X		
Driveway crossings on single family residential lots that disturb greater than 25 linear feet or 2,500 square feet of riparian buffer.		X	

Use	Exempt *	Allowable *	Allowable with Mitigation*
In a subdivision that cumulatively disturb equal to or less than 150 linear feet or one-third of an acre of riparian buffer.		X	
In a subdivision that cumulatively disturb greater than 150 linear feet or one-third of an acre of riparian buffer.			X
Driveway impacts other than crossing of a stream or other surface waters subject to this chapter.			X
Fences:			
Fences provided that disturbance is minimized and installation does not result in removal of trees as defined in this chapter.	X		
Fences provided that disturbance is minimized and installation results in removal of trees as defined in this chapter.	X		
Fertilizer application: one-time application to establish vegetation.	X		
Grading and revegetation in Zone Two provided that diffuse flow and the health of existing vegetation in Zone One is not compromised and disturbed areas are stabilized until they are revegetated.	X		
Greenway/hiking trails designed, constructed and maintained to maximize nutrient removal and erosion protection, minimize adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practical.		X	
Historic preservation..	X		
Maintenance access on modified natural streams: a grassed travel way on one side of the water body when less impacting alternatives are not practical. The width and specifications of the travel way shall be only that needed for equipment access and operation. The travel way shall be located to maximize stream shading.		X	
Mining activities:			
Mining activities that are covered by the Mining Act provided that new riparian buffers that meet the requirements of § 158.07(D) and (E) of this chapter are established adjacent to the relocated channels.		X	

Use	Exempt *	Allowable *	Allowable with Mitigation*
Wastewater or mining dewatering wells with approved NPDES permit.	X		
Playground equipment:			
Playground equipment on single family lots provided that installation and use does not result in removal of vegetation.	X		
Playground equipment installed on lands other than single-family lots or that requires removal of vegetation.		X	
Ponds created by impounding streams and not used as stormwater BMPs:			
New ponds provided that a riparian buffer that meets the requirements of § 158.07(D) and (E) of this chapter is established adjacent to the pond.		X	
New ponds where a riparian buffer that meets the requirements of § 158.07(D) and 7.(E) of this chapter is NOT established adjacent to the pond.			X
Protection of existing structures, facilities and stream banks when this requires additional disturbance of the riparian buffer or the stream channel.		X	
Railroad impacts other than crossings of streams and other surface waters subject to this chapter.			X
Railroad crossings of streams and other surface waters subject to this chapter:			
Railroad crossings that impact equal to or less than 40 linear feet of riparian buffer.	X		
Railroad crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer.		X	
Railroad crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer.			X
Recreational and accessory structures in Zone Two:			
Sheds and gazebos in Zone Two, provided they are not prohibited under local water supply ordinance:			
Total footprint less than or equal to 150 square feet per lot.		X	
Total footprint greater than 150 square feet per lot.			X

Use	Exempt *	Allowable *	Allowable with Mitigation*
Wooden slatted decks and associated steps, provided the use meets the requirements of § 158.07(D) and (E) of this chapter:			
Deck at least eight feet in height and no vegetation removed from Zone One.		X	
Deck less than eight feet in height or vegetation removed from Zone One.			X
Removal of previous fill or debris provided that diffuse flow is maintained and vegetation is restored.	X		
Road impacts other than crossings of streams and other surface waters subject to this chapter.			X
Road crossings of streams and other surface waters subject to this chapter:			
Road crossings that impact equal to or less than 40 linear feet of riparian buffer.	X		
Road crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer.		X	
Road crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer.			X
Road relocation: Relocation of existing private access roads associated with public road projects where necessary for public safety:			
Less than or equal to 2,500 square feet of buffer impact.		X	
Greater than 2,500 square feet of buffer impact.			X
Stormwater BMPs:			
Wet detention, bioretention, and constructed wetlands in Zone Two if diffuse flow of discharge is provided into Zone One.		X	
Wet detention, bioretention, and constructed wetlands in Zone One.			X
Scientific studies and stream gauging.	X		
Streambank or shoreline stabilization.		X	

Use	Exempt *	Allowable *	Allowable with Mitigation*
Temporary roads, provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions immediately after construction is complete and replanted immediately with comparable vegetation, except that tree planting may occur during the dormant season. A one-time application of fertilizer may be used to establish vegetation: At the end of five years the restored buffer shall comply with the restoration criteria in § 158.09(C)(7) of this chapter:			
Less than or equal to 2,500 square feet of buffer disturbance.	X		
Greater than 2,500 square feet of buffer disturbance.		X	
Associated with culvert installation or bridge construction or replacement.		X	
Temporary sediment and erosion control devices, provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions immediately after construction is complete and replanted immediately with comparable vegetation, except that tree planting may occur during the dormant season. A one-time application of fertilizer may be used to establish vegetation. At the end of five years the restored buffer shall comply with the restoration criteria in § 158.09(C)(7) of this chapter:			
In Zone Two provided ground cover is established within timeframes required by the Sedimentation and Erosion Control Act, vegetation in Zone One is not compromised, and runoff is released as diffuse flow in accordance with § 158.07(E) of this chapter.	X		
In Zones one and two to control impacts associated with uses approved by the Town of Haw River or that have received a variance, provided that sediment and erosion control for upland areas is addressed, to the maximum extent practical, outside the buffer.		X	
In-stream temporary erosion and sediment control measures for work within a stream channel that is authorized under Sections 401 and 404 of the Federal Water Pollution Control Act.	X		
In-stream temporary erosion and sediment control measures for work within a stream channel.		X	

Use	Exempt *	Allowable *	Allowable with Mitigation*
Utility, electric, aerial, perpendicular crossings of streams and other surface waters subject to this chapter ^{2,3,5} :			
Disturb equal to or less than 150 linear feet of riparian buffer.			
Disturb greater than 150 linear feet of riparian buffer.			
Utility, electric, aerial, other than perpendicular crossings ⁵ :			
Impacts in Zone Two.	X		
Impacts in Zone One ^{2,3} .	X		
Utility, electric, underground, perpendicular crossings ^{3, 4, 5} :			
Disturb less than or equal to 40 linear feet of riparian buffer.	X		
Disturb greater than 40 linear feet of riparian buffer.		X	
Utility, electric, underground, other than perpendicular crossings ⁴ :			
Impacts in Zone Two.	X		
Impacts in Zone One ¹ .	X		
Utility, non-electric, perpendicular crossings of streams and other surface waters subject to this chapter ^{3,5} :			
Disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor equal to or less than ten feet in width.	X		
Disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor greater than ten feet in width.		X	
Disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor equal to or less than ten feet in width.		X	
Disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor greater than ten feet in width.			X
Disturb greater than 150 linear feet of riparian buffer.			X

Use	Exempt *	Allowable *	Allowable with Mitigation*
Utility, non-electric, other than perpendicular crossings ^{4, 5} :			
Impacts in Zone Two.	X		
Impacts in Zone One ¹ .			X
Vegetation management:			
Emergency fire control measures provided that topography is restored.	X		
Mowing or harvesting of plant products in Zone Two.	X		
Planting vegetation to enhance the riparian buffer.	X		
Pruning forest vegetation provided that the health and function of the forest vegetation is not compromised.	X		
Removal of individual trees that are in danger of causing damage to dwellings, other structures or human life, or are imminently endangering stability of the streambank.	X		
Removal of individual trees which are dead, diseased or damaged.	X		
Removal of poison ivy.	X		
Removal of invasive exotic vegetation as defined in: <i>Smith, Cherri L. 1998. Exotic Plant Guidelines. Dept. of Environment and Natural Resources. Division of Parks and Recreation. Raleigh, NC. Guideline #30.</i>	X		
Vehicular access roads leading to water-dependent structures as defined in 15A NCAC 02B.0202, provided they do not cross the surface water and have minimum practicable width not exceeding ten feet.		X	
Water dependent structures as defined in 15A NCAC 02B.0202 where installation and use result in disturbance to riparian buffers.		X	
Water supply reservoirs:			
New reservoirs where a riparian buffer that meets the requirements of § 158.07(D) and (E) of this chapter is established adjacent to the reservoir.	X		
New reservoirs where a riparian buffer that meets the requirements of § 158.07(D) and (E) of this chapter is not established adjacent to the reservoir.			X

Use	Exempt *	Allowable *	Allowable with Mitigation*
Water wells			
Single family residential water wells.	X		
All other water wells.		X	
Wetland, stream and buffer restoration that results in impacts to the riparian buffers:			
Wetland, stream and buffer restoration that requires NC Division of Water Quality approval for the use of a 401 Water Quality Certification.	X		
Wetland, stream and buffer restoration that does not require Division of Water Quality approval for the use of a 401 Water Quality Certification.		X	
Wildlife passage structures.		X	
Piping of a stream under a permit issued by the US Army Corps of Engineers.		X	
* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in § 158.08(C).			
<p>¹ Provided that:</p> <p>(A) No heavy equipment is used in Zone One.</p> <p>(B) Vegetation in undisturbed portions of the buffer is not compromised.</p> <p>(C) Felled trees are removed by chain.</p> <p>(D) No permanent felling of trees occurs in protected buffers or streams.</p> <p>(E) Stumps are removed only by grinding.</p> <p>(F) At the completion of the project the disturbed area is stabilized with native vegetation.</p> <p>(G) Zones one and two meet the requirements of § 158.07(D) and (E)</p> <p>² Provided that, in Zone One, all of the following BMPs for overhead utility lines are used. If all of these BMPs are not used, then the overhead utility lines shall require a no practical alternative evaluation by the Town of Haw River, as defined in § 158.09(A).</p> <p>(A) A minimum zone of ten feet wide immediately adjacent to the water body shall be managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed.</p> <p>(B) Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.</p> <p>(C) Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain where trees are cut.</p> <p>(D) Riprap shall not be used unless it is necessary to stabilize a tower.</p> <p>(E) No fertilizer shall be used other than a one-time application to re-establish vegetation.</p> <p>(F) Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.</p> <p>(G) Active measures shall be taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.</p> <p>(H) In wetlands, mats shall be utilized to minimize soil disturbance.</p>			

- ³ Provided that poles or aerial infrastructure shall not be installed within ten feet of a water body unless the Town of Haw River completes a no practical alternative evaluation as defined in § 158.09(A).
- ⁴ Provided that, in Zone One, all of the following BMPs for underground utility lines are used. If all of these BMPs are not used, then the underground utility line shall require a no practical alternative evaluation by the Town of Haw River, as defined in § 158.09(A).
- (A) Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
 - (B) Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain, except in the trench where trees are cut.
 - (C) Underground cables shall be installed by vibratory plow or trenching.
 - (D) The trench shall be backfilled with the excavated soil material immediately following cable installation.
 - (E) No fertilizer shall be used other than a one-time application to re-establish vegetation.
 - (F) Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
 - (G) Measures shall be taken upon completion of construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
 - (H) In wetlands, mats shall be utilized to minimize soil disturbance.
- ⁵ Perpendicular crossings are those that intersect the surface water at an angle between 75 degrees and 105 degrees.

(C) *Requirements for categories of uses.* Uses designated in § 158.08(B) of this section as exempt, allowable, and allowable with mitigation within a riparian buffer shall have the following requirements:

(1) *Exempt.* Uses designated as exempt are permissible without authorization by the Town of Haw River provided that they adhere to the limitations of the activity as defined in § 158.08(B) of this section, the Table of Uses. In addition, exempt uses shall be designed, constructed and maintained to minimize soil disturbance and to provide the maximum water quality protection practicable, including construction, monitoring, and maintenance activities.

(2) *Allowable.* Uses designated as allowable may proceed provided that there are no practical alternatives to the requested use pursuant to § 158.09(A) of this section. This includes construction, monitoring, and maintenance activities. These uses require written authorization from the Town of Haw River.

(3) *Allowable with mitigation.* Uses designated as allowable with mitigation may proceed provided that there are no practical alternatives to the requested use pursuant to § 158.09(A) of this section and an appropriate mitigation strategy has been approved pursuant to § 158.09(C). These uses require written authorization from the Town of Haw River.

(Ord. passed 11-1-10; Am. Ord. passed 12-5-16)

[Text continues on page 286.]

§ 158.09 PERMITS, PROCEDURES, REQUIREMENTS AND APPROVALS.

(A) *Determination of no practical alternatives/request for authorization certificate.*

(1) Persons who wish to undertake uses designated as allowable or allowable with mitigation shall submit a request for a "no practical alternatives" determination to the Town of Haw River. The applicant shall certify that the project meets all the following criteria for finding "no practical alternatives":

(a) The basic project purpose cannot be practically accomplished in a manner that would better minimize disturbance, preserve aquatic life and habitat, and protect water quality;

(b) The use cannot practically be reduced in size or density, reconfigured or redesigned to better minimize disturbance, preserve aquatic life and habitat, and protect water quality; and

(c) Best management practices shall be used if necessary to minimize disturbance, preserve aquatic life and habitat, and protect water quality.

(2) The applicant shall also submit at least the following information in support of their assertion of "no practical alternatives":

(a) The name, address and phone number of the applicant;

(b) The nature of the activity to be conducted by the applicant;

(c) The location of the activity, including the jurisdiction;

(d) A map of sufficient detail to accurately delineate the boundaries of the land to be utilized in carrying out the activity, the location and dimensions of any disturbance in riparian buffers associated with the activity, and the extent of riparian buffers on the land;

(e) An explanation of why this plan for the activity cannot be practically accomplished, reduced or reconfigured to better minimize disturbance to the riparian buffer, preserve aquatic life and habitat and protect water quality; and

(f) Plans for any best management practices proposed to be used to control the impacts associated with the activity.

(3) Within 60 days of a submission that addresses division (A)(2) above, the Town of Haw River shall review the entire project and make a finding of fact as to whether the criteria in division (A)(1) above have been met. A finding of "no practical alternatives" shall result in issuance of an authorization certificate. Failure to act within 60 days shall be construed as a finding of "no practical alternatives" and an authorization certificate shall be issued to the applicant unless one of the following occurs:

(a) The applicant agrees, in writing, to a longer period;

(b) The Town of Haw River determines that the applicant has failed to furnish requested information necessary to the Town of Haw River decision;

(c) The final decision is to be made pursuant to a public hearing; or

(d) The applicant refuses access to its records or premises for the purpose of gathering information necessary to the Town of Haw River's decision.

(4) The Town of Haw River may attach conditions to the authorization certificate that support the purpose, spirit and intent of this chapter.

(5) Any appeals of determinations regarding authorization certificates shall be referred to the Director of the Division of Water Quality, c/o the 401 Oversight Express Permitting Unit, or its successor. The Director's decision is subject to review as provided in G.S. Chapter 150B, Articles 3 and 4.

(B) *Variances.*

(1) *Requirements for variances.* Persons who wish to undertake prohibited uses may pursue a variance. The Town of Haw River may grant minor variances. For major variances, the Town of Haw River shall prepare preliminary findings and submit them to the Division of Water Quality, c/o the 401 Oversight Express Permitting Unit, or its successor for approval by the Environmental Management Commission. The variance request procedure shall be as follows:

(a) For any variance request, the Town of Haw River shall make a finding of fact as to whether there are practical difficulties or unnecessary hardships that prevent compliance with the riparian buffer protection requirements. A finding of practical difficulties or unnecessary hardships shall require that the following conditions are met:

1. If the applicant complies with the provisions of this chapter, he or she can secure no reasonable return from, nor make reasonable use of, his or her property. Merely proving that the variance would permit a greater profit from the property shall not be considered adequate justification for a variance. Moreover, the Town of Haw River shall consider whether the variance is the minimum possible deviation from the terms of this chapter that shall make reasonable use of the properly possible;

2. The hardship results from application of this chapter to the property rather than from other factors such as deed restrictions or other hardship;

3. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, such that compliance with provisions of this chapter would not allow reasonable use of the property;

4. The applicant did not cause the hardship by knowingly or unknowingly violating this chapter;

5. The applicant did not purchase the property after the effective date of this chapter, and then request a variance; and

6. The hardship is rare or unique to the applicant's property.

(b) The variance is in harmony with the general purpose and intent of the state's riparian buffer protection requirements and this chapter and preserves its spirit; and

(c) In granting the variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

(2) *Minor variances.* A minor variance request pertains to activities that will impact only Zone Two of the riparian buffer. Minor variance requests shall be reviewed and approved based on the criteria in divisions (A)(1) through (A)(3) above by the Town of Haw River pursuant to G.S. Chapter 153A, Article 18, or Chapter 160A, Article 19. The Town of Haw River may attach conditions to the variance approval that support the purpose, spirit and intent of the riparian buffer protection program. Request for appeals to decisions made by the Town of Haw River shall be made in writing to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor. The Director's decision is subject to review as provided in G.S. Chapter 150B, Articles 3 and 4.

(3) *Major variances.* A major variance request pertains to activities that will impact any portion of Zone One or any portion of both Zones One and Two of the riparian buffer. If the Town of Haw River has determined that a major variance request meets the requirements in division (B)(1) above then it shall prepare a preliminary finding and submit it to the NC Environmental Management Commission Division of Water Quality, c/o401 Oversight Express Permitting Unit, or its successor, for approval. Within 90 days after receipt by the Town of Haw River, the Commission shall review preliminary findings on major variance requests and take one of the following actions: approve, approve with conditions and stipulations, or deny the request. Appeals from a Commission decision on a major variance request are made on judicial review to Superior Court.

(C) *Mitigation.*

(1) This item shall apply to persons who wish to impact a riparian buffer in the Jordan Watershed when one of the following applies:

(a) A person has received an authorization certificate pursuant to division (A) above for a proposed use that is designated as "allowable with mitigation"; or

(b) A person has received a variance pursuant to division (B) above and is required to perform mitigation as a condition of a variance approval.

(2) *Issuance of the mitigation approval.* The Town of Haw River shall issue a mitigation approval upon determining that a proposal meets the requirements set out in this chapter. The approval shall identify at a minimum the option chosen, the required and proposed areas, and either the mitigation location or the offset payment amount as applicable.

(3) *Options for meeting the mitigation requirement.* The mitigation requirement may be met through one of the following options:

(a) Payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to 15A NCAC 02B .0269 (Jordan Water Supply Nutrient Strategy: Riparian Buffer Mitigation Fees to the NC Ecosystem Enhancement Program) contingent upon acceptance of payments by the NC Ecosystem Enhancement Program, or to a private mitigation bank that complies with banking requirements of the US Army Corps of Engineers, currently set out at <http://www.saw.usace.army.mil/WETLANDS/Mitigation/mitbanks.html> or from the US Army Corps of Engineers, P.O. Box 1890, Wilmington, NC, 28402-1890, and the applicable trading criteria in Rule 15A NCAC 02B .0273;

(b) Donation of real property or of an interest in real property pursuant to division (C)(6) below; or

(c) Restoration or enhancement of a non-forested riparian buffer pursuant to the requirements of division (C)(7) above.

(4) *The area of mitigation.* The Town of Haw River shall determine the required area of mitigation, which shall apply to all mitigation options identified in division (C)(3) above and as further specified in the requirements for each option set out in this section, according to the following:

(a) The impacts in square feet to each zone of the riparian buffer shall be determined by the Town of Haw River by adding the following:

1. The area of the footprint of the use causing the impact to the riparian buffer;
2. The area of the boundary of any clearing and grading activities within the riparian buffer necessary to accommodate the use; and
3. The area of any ongoing maintenance corridors within the riparian buffer associated with the use.

(b) The required area of mitigation shall be determined by applying the following multipliers to the impacts determined in division (4)(a) above to each zone of the riparian buffer:

1. Impacts to Zone One of the riparian buffer shall be multiplied by three;
 2. Impacts to Zone Two of the riparian buffer shall be multiplied by one and one-half;
- and
3. Impacts to wetlands within Zones One and Two of the riparian buffer that are subject to mitigation under 15A NCAC 2H .0506 shall comply with the mitigation ratios in 15A NCAC 2H .0506.

(5) *The location of mitigation.* For any option chosen, the mitigation effort shall be located within the same subwatershed of the Jordan watershed, as defined in 15A NCAC 02B .0262, and the same distance from the Jordan Reservoir as the proposed impact, or closer to the Reservoir than the impact, and as close to the location of the impact as feasible. Alternatively, the applicant may propose mitigation anywhere within the same subwatershed of the Jordan watershed, as defined in 15A NCAC 02B .0262, provided that the mitigation proposal accounts for differences in delivery of nutrients to the affected arm of Jordan Reservoir resulting from differences between the locations of the buffer impact and mitigation. Additional location requirements for the property donation option are enumerated in division (C)(6)(c)1. below.

(6) *Donation of property.* Persons who choose to satisfy their mitigation determination by donating real property or an interest in real property shall meet the following requirements:

(a) The donation of real property interests may be used to either partially or fully satisfy the payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to 15A NCAC 02B .0269. The value of the property interest shall be determined by an appraisal performed in accordance with division (C)(6)(d)4. below. The donation shall satisfy the mitigation determination if the appraised value of the donated property interest is equal to or greater than the required fee. If the appraised value of the donated property interest is less than the required fee calculated pursuant to 15A NCAC 02B .0269, the applicant shall pay the remaining balance due.

(b) The donation of conservation easements to satisfy compensatory mitigation requirements shall be accepted only if the conservation easement is granted in perpetuity.

(c) Donation of real property interests to satisfy the mitigation determination shall be accepted only if such property meets all of the following requirements:

1. In addition to the location requirements of division (C)(5) above, the property shall be located within an area that is identified as a priority for restoration in, or is otherwise consistent with the goals of, the Basinwide Wetlands and Riparian Restoration Plan for the Cape Fear River Basin developed by NC Division of Water Quality pursuant to G.S. § 143-214.10;

2. The property shall contain riparian buffers not currently protected by the state's riparian buffer protection program that are in need of restoration as defined in division (7)(d) below;

3. The restorable riparian buffer on the property shall have a minimum length of 1,000 linear feet along a surface water and a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water;

4. The size of the restorable riparian buffer on the property to be donated shall equal or exceed the area of mitigation responsibility determined pursuant to division (C)(4) above;

5. Restoration shall not require removal of man-made structures or infrastructure;

6. The property shall be suitable to be successfully restored, based on existing hydrology, soils, and vegetation;

7. The estimated cost of restoring and maintaining the property shall not exceed the value of the property minus site identification and transaction costs;

8. The property shall not contain any building, structure, object, site, or district that is listed in the National Register of Historic Places established pursuant to Public Law 89-665, 16 U.S.C. 470 as amended;

9. The property shall not contain any hazardous substance or solid waste;

10. The property shall not contain structures or materials that present health or safety problems to the general public. If wells, septic, water or sewer connections exist, they shall be filled, remediated or closed at owner's expense in accordance with state and local health and safety regulations;

11. The property and adjacent properties shall not have prior, current, and known future land use that would inhibit the function of the restoration effort; and

12. The property shall not have any encumbrances or conditions on the transfer of the property interests.

(d) At the expense of the applicant or donor, the following information shall be submitted to the Town of Haw River with any proposal for donations or dedications of interest in real property:

1. Documentation that the property meets the requirements laid out in division (C)(6)(c) above;

2. US Geological Survey 1:24,000 (7.5 minute) scale topographic map, county tax map, USDA Natural Resource Conservation Service County Soil Survey Map, and county road map showing the location of the property to be donated along with information on existing site conditions, vegetation types, presence of existing structures and easements;

3. A current property survey performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the State Board of Registration for Professional Engineers and Land Surveyors in *Standards of Practice for Land Surveying in North Carolina*. Copies may be obtained from the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, 3620 Six Forks Road, Suite 300, Raleigh, North Carolina 27609;

4. A current appraisal of the value of the property performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the Appraisal Board in the *Uniform Standards of Professional North Carolina Appraisal Practice*. Copies may be obtained from the Appraisal Foundation, Publications Department, P.O. Box 96734, Washington, D.C. 20090-6734; and

5. A title certificate.

(7) *Riparian buffer restoration or enhancement*. Persons who choose to meet their mitigation requirement through riparian buffer restoration or enhancement shall meet the following requirements:

(a) The applicant may restore or enhance a non-forested riparian buffer if either of the following applies:

1. The area of riparian buffer restoration is equal to the required area of mitigation determined pursuant to division (C)(4) above; or

2. The area of riparian buffer enhancement is three times larger than the required area of mitigation determined pursuant to division (C)(4) above;

(b) The location of the riparian buffer restoration or enhancement shall comply with the requirements in division (C)(5) above;

(c) The riparian buffer restoration or enhancement site shall have a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water;

(d) Enhancement and restoration shall both have the objective of establishing a forested riparian buffer according to the requirements of this item. Enhancement shall be distinguished from restoration based on existing buffer conditions. Where existing trees are sparse, that is greater than or equal to 100 trees per acre but less than 200 trees per acre, a buffer may be enhanced. Where existing woody vegetation is absent, that is less than 100 trees per acre, a buffer may be restored;

(e) The applicant shall first receive an authorization certificate for the proposed use according to the requirements of division (A) above. After receiving this determination, the applicant shall submit a restoration or enhancement plan for approval by the Town of Haw River. The restoration or enhancement plan shall contain the following:

1. A map of the proposed restoration or enhancement site;

2. A vegetation plan. The vegetation plan shall include a minimum of at least two native hardwood tree species planted at a density sufficient to provide 320 trees per acre at maturity;

3. A grading plan. The site shall be graded in a manner to ensure diffuse flow through the riparian buffer;

4. A fertilization plan; and

5. A schedule for implementation;

(f) Within one year after the Town of Haw River has approved the restoration or enhancement plan, the applicant shall present proof to the Town of Haw River that the riparian buffer has been restored or enhanced. If proof is not presented within this timeframe, then the person shall be in violation of both the state's and the Town of Haw River's riparian buffer protection program;

(g) The mitigation area shall be placed under a perpetual conservation easement that will provide for protection of the property's nutrient removal functions; and

(h) The applicant shall submit annual reports for a period of five years after the restoration or enhancement showing that the trees planted have survived and that diffuse flow through the riparian buffer has been maintained. The applicant shall replace trees that do not survive and restore diffuse flow if needed during that five-year period.

(Ord. passed 11-1-10)

§ 158.10 COMPLIANCE AND ENFORCEMENT.

(A) Site inspections.

(1) Agents, officials, or other qualified persons authorized by the Town of Haw River may periodically inspect riparian buffers to ensure compliance with this chapter.

(2) Notice of the right to inspect shall be included in the letter of approval of each variance and buffer authorization.

(3) *Authority to enter property and conduct investigations and inspections.* Authorized agents, officials or other qualified persons shall have the authority, upon presentation of proper credentials, to enter and inspect at reasonable times any properly, public or private, for the purpose of investigating and inspecting the site of any riparian buffer. No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of the Town of Haw River, while that person is inspecting or attempting to inspect a riparian buffer nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out their official duties. The Town of Haw River shall have the power to conduct such investigations as deemed reasonably necessary to carry out the duties as prescribed in this chapter.

(4) Notice of violation.

(a) If it is determined that a person has failed to comply with the requirements of this chapter, or rules, or orders adopted or issued pursuant to this chapter, a notice of violation shall be served upon that person. The notice may be served by any means authorized under G.S. § 1A-1, Rule 4. In the event service cannot be accomplished by registered or certified mail, it may be accomplished in any manner provided in Rule (4)j of the North Carolina Rules of Civil Procedure.

(b) The notice shall specify the violation and inform the person of the actions that need to be taken to comply with this chapter, or rules or orders adopted pursuant to this chapter. The notice shall direct the person to correct the violation within a specified reasonable time. The notice shall inform the person that any person who violates or fails to act in accordance with any of the provisions of this chapter or rules or orders adopted or issued pursuant to this chapter is subject to the civil and criminal penalties and other enforcement actions as provided in this chapter.

(5) *Power to require statements.* The Town of Haw River shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activities.

(B) *Civil penalties.*

(1) *Assessment of penalties.* Any person who violates or fails to act in accordance with any of the provisions of this chapter or rules or orders adopted or issued pursuant to this chapter shall be subject to a civil penalty. A civil penalty for a violation may be assessed in an amount not to exceed \$10,000 per day. If any violation for which a penalty may be assessed is continuous, a civil penalty may be assessed for each day of the violation in an amount not to exceed \$25,000 per day for as long as the violation occurs. Each day of a continuing violation shall constitute a separate violation under this division.

(2) *Notice of civil penalty assessment.* The governing body of the Town of Haw River shall provide written notice of the civil penalty amount and the basis for the assessment to the person assessed. The notice of civil penalty assessment shall be served by any means authorized under G.S. § 1A-1, Rule 4, and shall direct the violator to either pay the assessment or contest the assessment, within 30 days after receipt of the notice of assessment by written demand for a hearing.

(3) *Hearing.* A hearing on the civil penalty shall be conducted by the Town of Haw River Town Council within 30 days after the date the written demand for the hearing is received by the Town of Haw River Town Council. The board conducting the hearing shall make its recommendation to the governing body of the Town of Haw River within 30 days after the date of the hearing.

(4) *Final decision.* The governing body shall issue a final decision on the civil penalty within 30 days of the recommended decision. A copy of the final decision shall be served on the violator by any means authorized under G.S. § 1A-1, Rule 4.

(5) *Appeal of final decision.* Appeal from the final decision of the governing body shall be to the Superior Court of the county in which the violation occurred. Any appeal must be filed within 30 days of receipt of the final decision. A copy of the appeal must be served on the (Town Manager/County Board/other appropriate person) by any means authorized under G.S. § 1A-1, Rule 4.

(6) *Demand for payment of penalty.* An assessment that is not contested is due when the violator is served with a notice of assessment. The civil penalty must be paid within 30 days of the assessment, if not appealed, or within 30 days after the conclusion of the administrative or judicial review of the assessment. If payment is not received within 30 days after demand for payment is made, the Town of Haw River may institute a civil action to recover the amount of the assessment. The civil action may be brought in the Superior Court where the violation occurred, or the violator's residence or principal place of business is located. Such civil actions must be filed within three years of the date the assessment was due.

(7) *Use of penalties.* Civil penalties collected pursuant to this chapter shall be credited to the general fund of the Town of Haw River as nontax revenue.

(C) *Criminal penalties.* A violation of the provisions of this chapter or a rule or order adopted pursuant to this chapter shall be punished as provided for in the North Carolina General Statutes for the violation of local ordinances (see G.S. § 14-4). Violation may also be punishable under the provisions of G.S. § 143-215.6B.

(D) *Injunctive relief.*

(1) Civil action in Superior Court. Whenever the governing body of the Town of Haw River has reasonable cause to believe that any person is violating or threatening to violate this chapter or any rule or order adopted or issued pursuant to this chapter, it may, either before or after the institution of any other action or proceeding authorized by this chapter, institute a civil action in the name of the Town of Haw River for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of Alamance County.

(2) *Order to cease violation.* Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this chapter.

(E) *Compliance with requirements.* Any person engaged in new activities as defined by this chapter who fails to meet the requirements of this chapter shall be deemed in violation of this chapter.
(Ord. passed 11-1-10)

§ 158.11 SEVERABILITY.

If any one or more sections or portions thereof of this chapter are held to be invalid or unenforceable, all other sections and portions thereof shall nevertheless continue in full force and effect.
(Ord. passed 11-1-10)

§ 158.12 EFFECTIVE DATE.

This chapter will become effective upon approval by the NC Environmental Management Commission and adoption by the Town of Haw River Town Council.
(Ord. passed 11-1-10)

§ 158.13 REVISIONS TO CHAPTER.

The Town of Haw River shall review any revisions to the Model Local Riparian Buffer Protection Ordinance made by the Environmental Management Commission and, within 60 days of receipt of the recommended revisions, submit draft amendments to the Commission for its consideration and comments. Within 90 days after receipt of the Commission's comments, the Town of Haw River will incorporate amendments into this chapter.

(Ord. passed 11-1-10)

§ 158.14 DEFINITIONS.

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

ACCESS TRAILS. Pedestrian trails constructed of pervious or impervious surfaces and related structures to access a surface water, including boardwalks, steps, rails, and signage.

AIRPORT FACILITIES. All properties, facilities, buildings, structures, and activities that satisfy or otherwise fall within the scope of one or more of the definitions or uses of the words or phrases **AIR NAVIGATION FACILITY**, **AIRPORT**, or **AIRPORT PROTECTION PRIVILEGES** under G.S. § 63-1; the definition of **AERONAUTICAL FACILITIES** in G.S. § 63-79(1); the phrase **AIRPORT FACILITIES** as used in G.S. § 159-48(b)(1); the phrase **AERONAUTICAL FACILITIES** as defined in G.S. §§ 159-81 and 159-97; and the phrase **AIRPORT FACILITIES AND IMPROVEMENTS** as used in Article V, Section 13, of the North Carolina Constitution, which shall include, without limitation, any and all of the following: airports, airport maintenance facilities, clear zones, drainage ditches, fields, hangars, landing lighting, airport and airport-related offices, parking facilities, related navigational and signal systems, runways, stormwater outfalls, terminals, terminal shops, and all appurtenant areas used or suitable for airport buildings or other airport facilities, and all appurtenant rights-of-way; restricted landing areas; any structures, mechanisms, lights, beacons, marks, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport or restricted landing area; easements through, or interests in, air space over land or water, interests in airport hazards outside the boundaries of airports or restricted landing areas, and other protection privileges, the acquisition or control of which is necessary to ensure safe approaches to the landing areas of airports and restricted landing areas, and the safe and efficient operation thereof and any combination of any or all of such facilities. Notwithstanding the foregoing, the following shall not be included in the definition of **AIRPORT FACILITIES**:

- (1) Satellite parking facilities;

(2) Retail and commercial development outside of the terminal area, such as rental car facilities; and

(3) Other secondary development, such as hotels, industrial facilities, freestanding offices and other similar buildings, so long as these facilities are not directly associated with the operation of the airport, and are not operated by a unit of government or special governmental entity such as an airport authority, in which case they are included in the definition of **AIRPORT FACILITIES**.

CHANNEL. A natural water-carrying trough cut vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water.

DBH. Diameter at breast height of a tree measured at four and one-half feet above ground surface level.

DEVELOPMENT. The same as defined in Rule 15A NCAC 2B.0202(23).

DITCH or CANAL. A man-made channel other than a modified natural stream constructed for drainage purposes that is typically dug through inter-stream divide areas. A ditch or canal may have flows that are perennial, intermittent, or ephemeral and may exhibit hydrological and biological characteristics similar to perennial or intermittent streams.

EPHEMERAL STREAM. A feature that carries only stormwater in direct response to precipitation with water flowing only during and shortly after large precipitation events. An ephemeral stream may or may not have a well-defined channel, the aquatic bed is always above the water table, and stormwater runoff is the primary source of water. An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with the continuous or intermittent conveyance of water.

EXISTING DEVELOPMENT. Development, other than that associated with agricultural or forest management activities, that meets one of the following criteria:

(1) It either is built or has established a vested right based on statutory or common law as interpreted by the courts, for projects that do not require a state permit, as of the effective date of either local new development stormwater programs implemented under Rule 15A NCAC 2B .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) or, for projects requiring a state permit, as of the applicable compliance date established in Rule 15A NCAC 2B .0271 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development), Items (5) and (6); or

(2) It occurs after the compliance date set out in Sub-Item (4)(d) of Rule .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) but does not result in a net increase in built-upon area.

GREENWAY/HIKING TRAILS. Pedestrian trails constructed of pervious or impervious surfaces and related structures including but not limited to boardwalks, steps, rails, and signage, and that generally run parallel to the shoreline.

HIGH VALUE TREE. A tree that meets or exceeds the following standards: for pine species, 14-inch DBH or greater or 18-inch or greater stump diameter; or for hardwoods and wetland species, 16-inch DBH or greater or 24-inch or greater stump diameter.

INTERMITTENT STREAM. A well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water.

JORDAN NUTRIENT STRATEGY or JORDAN WATER SUPPLY NUTRIENT STRATEGY. The set of Rules 15A NCAC 2B .0262 through .0273 and .0311(p).

JORDAN RESERVOIR. The surface water impoundment operated by the US Army Corps of Engineers and named B. Everett Jordan Reservoir, as further delineated for purposes of the Jordan nutrient strategy in Rule 15A NCAC 2B .0262(4).

JORDAN WATERSHED. All lands and waters draining to B. Everett Jordan Reservoir.

NEW DEVELOPMENT. Any development project that does not meet the definition of existing development set out in this chapter.

PERENNIAL STREAM. A well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

PERENNIAL WATERBODY. A natural or man-made basin, including lakes, ponds, and reservoirs, that stores surface water permanently at depths sufficient to preclude growth of rooted plants. For the purpose of the state's riparian buffer protection program, the waterbody must be part of a natural drainage way (i.e., connected by surface flow to a stream).

SHORELINE STABILIZATION. The in-place stabilization of an eroding shoreline. Stabilization techniques which include "soft" methods or natural materials (such as root wads, or rock vanes) may be considered as part of a restoration design. However, stabilization techniques that consist primarily of "hard" engineering, such as concrete lined channels, riprap, or gabions, while providing bank stabilization, shall not be considered stream restoration.

STREAM. A body of concentrated flowing water in a natural low area or natural channel on the land surface.

STREAM RESTORATION. The process of converting an unstable, altered or degraded stream corridor, including adjacent riparian zone and flood-prone areas to its natural or referenced, stable conditions considering recent and future watershed conditions. This process also includes restoring the geomorphic dimension, pattern, and profile as well as biological and chemical integrity, including transport of water and sediment produced by the stream's watershed in order to achieve dynamic equilibrium. **REFERENCED** or **REFERENCED REACH** means a stable stream that is in dynamic equilibrium with its valley and contributing watershed. A reference reach can be used to develop natural channel design criteria for stream restoration projects.

STUMP DIAMETER. The diameter of a tree measured at six inches above the ground surface level.

SURFACE WATERS. All waters of the state as defined in G.S. § 143-212 except underground waters.

TEMPORARY ROAD. A road constructed temporarily for equipment access to build or replace hydraulic conveyance structures such as bridges, culverts, pipes or water dependent structures, or to maintain public traffic during construction.

TREE. A woody plant with a DBH equal to or exceeding five inches or a stump diameter exceeding six inches.
(Ord. passed 11-1-10)

TABLE OF SPECIAL ORDINANCES

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- I. ANNEXATIONS**
- II. FRANCHISES**
- III. ZONING MAP CHANGES**

TABLE I: ANNEXATIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
- -	10-4-76	Annexing a certain tract or parcel of land adjoining the lands of Sherri Drive, R. T. Cobb, A. R. Dickey, and other lands of Marvin T. Riley.
- -	10-4-76	Annexing a certain lot or parcel of land adjoining the lands of U.S. Highway 70, Mrs. J. M. Riley, Mrs. Pearl Freeland, and others.
- -	9-5-84	Annexing the following tracts or parcels of land: (1) Beginning at a point in the existing corporate limits line and in the line between E.C. Workman and R. T. Thompson, containing 5.34 acres; and (2) Beginning at a stake in the existing corporate limits line and in the line between M. L. Murray and C. B. Allen, containing 2.09 acres.
- -	9-13-84	Annexing a certain tract or parcel of land in the town adjoining the lands of Mrs. R. T. Thompson, Richard M. Mitchell, Ethelene Johnson, Holt Street (S.R. 1941), Haywood Ray, J. R. Martindale, C. W. Turner, Clayton, and others.
- -	9-4-85	Annexing certain property beginning at a point in the center of S.R. 1938 and in the line of the existing corporate limits containing .452 acres.
- -	5-7-86	Annexing certain property beginning at a nail and cap in the center of Trollingwood Rd. and corner between A. C. Sharpe and Lawrence Industries, then with the center of Trollingwood Rd. and the line of Lawrence Industries to a nail and cap in the center of the road and corner between Lawrence Industries and M. L. Rudd, containing approximately 119.51 acres.

Haw River - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
- -	5-7-86	Annexing the following tracts or parcels of land: (1) Beginning at a point in the center of U.S. Highway 70, L. Wilson's southwest property corner, and the existing corporate limits line, containing approximately 31.16 acres; and (2) Beginning at a stake in the existing corporate limits line and in the line of R. H. Douglas and Lot 1 of the E. Glenn Pendergraph property, containing .596 acre.
- -	9-22-87	Annexing a certain parcel or tract of land adjoining the lands of the town's existing corporate limits, Trollingwood Rd. Ada C. Sharpe, James Thadeaus Martin, Jr., Henry Martin, J. W. Evans, Danny R. Slaughter, Mattie S. Gourley, Aubrey A. Lute, Warren G. Riley, Clyde A. Vance, Brenda Kay Neese, Joseph Cameron Starnes, North Carolina Railroad, Glenn E. Faucette, Johnnie A. Maness, S.R. 1936, Eugene D. Bridges, Newell Vance Coble, Minnie Goodman Christopher, Davidia C. Faucette, W. S. Foster, Jr., Lots 9 through 17 of the Kerr Scott and Lonnie Thompson property, Robert Chavis, Willie Park, William I. Crabtree, Sr., Todd Evans Turner, John W. Ezzell, Lots 1, 2, 20, 21, 22, and 23 of Twin Ridge Acres, and others.
- -	12-27-88	Annexing a tract or parcel of land adjoining the lands of Mrs. James H. Johnson, Dolph Farrington, Taylor Ray Crawford, Grace Brown, the existing corporate limits, Holt Street, Noah J. Clayton, Robert J. Graham, and others.
- -	9-5-89	Annexing a tract or parcel of land adjoining the lands of the existing corporate limits line, Theodore C. Blackington, Lots 1 and 4 of the Redivision of Lot 3 Roy D. Murray property, and others.

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
- -	6-5-95	Annexing a tract or parcel of land adjoining the lands of the existing corporate limits, Haw River-Hopedale Road, Donald R. Pendergraph, Robert Elvis Pendergraph, Robert Eugene Rowley, Cox Properties, Herman C. Johnson, Lewis S. Hornaday, Jr., Brodie G. Riley, Mrs. H. R. Ray, Mary R. Cates, and others.
- -	10-30-95	Annexing a tract or parcel of land adjoining the lands of the existing corporate limits, U.S. Highway 70, Wallace L. Gilliam, Sr., and others.
- -	8-2-98	Annexing certain tracts of land as follows: all of Lot 1, containing approximately 18,200 square feet, all of Lot 2, containing approximately 18,200 square feet, and all of Lot 3, containing approximately 1.31 acres.
- -	12-9-96	Annexing the following tracts of land: Tract I, parcel 1, adjoining the lands of the heirs of J. W. Chandler, Pleasant Dixon, and others; parcel 2, adjoining the lands of J. W. Trollinger, W. A. Trollinger, and J. L. Webb; parcel 3, adjoining the lands of J. W. Trollinger, heirs of J. I. Chandler, Pleasant Dixon, and Gold Mine tract; parcel 4, adjoining the lands of Margaret L. Harder, Calvin K. Rest, William I. Crabtree, John L. Schoderbeck, J. M. Trollinger, Trans-Service, Inc., S.R. 1928, and others; Tract III, adjoining the lands of S.R. 1328, Richard A. Poe, William I. Crabtree, Jack R. Burke, and Calvin K. Best; Tract IV, adjoining the lands of Hawfields Road, Jack Trollinger, Mrs. J. M. Baker, C. P. Wells, and others.
- -	2-1-99	Annexing that tract or parcel of land adjoining the lands of Trans-Service, Inc., Jack R. Burke, J. M. Trollinger, and S.R. 1928.

Haw River - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
- -	7-6-99	Annexing that tract or parcel of land adjoining the lands of G. E. Riggins-Center of Haw River-Hopedale Highway - Harrison B. Manness-Haw River.
- -	7-6-99	Annexing that tract or parcel of land in Faucette Township adjoining the lands of Earl Horner, George E. Riggan, Mrs. Fern Harder Riggan, Ruby Haith, and others.
- -	10-4-99	Annexing Lots 7 and 8 of the plat of the W. Kerr Scott, Wells, and Riddle property.
- -	10-4-99	Annexing that tract or parcel of land beginning at a point in the right-of-way of Haw River-Hopedale, S.R. 1737 and containing approximately 5 acres.
- -	11-1-99	Annexing Lots 5 and 6 of the W. Kerr Scott, Wells, and Riddle Property.
- -	4-1-00	Annexing that tract or parcel of land adjoining the lands of Marvin Hannah, Currie Clayton, Virginia Workman, Pearl Eller, and Thompson Road.
- -	5-1-00	Annexing that tract or parcel of land adjoining the lands of Marvin Hannah, Currie Clayton, Virginia Workman, Pearl Eller and Thompson Road.
- -	6-5-00	Annexing that tract or parcel of land adjoining the lands of Nina G. Baker, North Carolina Railroad, Harold R. Cockran, Ronald W. Ezzell, Patty P. Pennington, Mary S. Boggs, and Stone Street.
- -	3-26-01	Annexing the following tracts of land: A 9.27 acre parcel and a 7.82 acre parcel, both bordering the Haw River - Hopedale Subdivision, and two tracts (10.44 acres and 10.10 acres), all owned by Herman Johnson.

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
--	10-7-02	Annexing that tract or parcel of land containing 0.352 acres of land adjoining the lands of HCJ Properties, Inc. and Elizabeth D. Jones.
--	3-3-03	Annexing that tract or parcel of land containing 4.835 acres adjoining the lands of James E. Turner, William B. Carter, Dorothy C. Turner, Newlin Dairy Farms and Roxboro Street (NC 49).
--	6-28-04	Annexing that tract or parcel of land containing 0.636 acres adjoining the lands of Lauren Agnew, Frank M. Way, Jr. and Charles M. Cox.
--	6-28-04	Annexing that tract or parcel of land containing 0.534 acres adjoining the lands of Charles M. Cox, Sr., George R. Maness and Hopedale Road (SR 1737).
--	10-4-04	Annexing that tract or parcel of land containing 5.971 acres adjoining the lands of James P. Goodin, Elmer R. Jarrett, Logan E. Crutchfield, Jr., Mervin W. Farrar, and others and Roxboro Street (NC 49).
--	8-1-05	Annexing that tract or parcel of land beginning at a point inside the right-of-way of Highway 49 and containing approximately 2.071 acres.
--	10-3-05	Annexing a certain tract or parcel of land adjoining the lands of Mary S. Garrison, James T. Martin, Herman C. Johnson, Mattie S. Gourley and others.
--	5-1-06	Annexing that tract or parcel of land adjoining property now or formerly owned by Haw River United Church of Christ, NCSR 1927 (Bason Road) and NC Hwy 49, containing 7.556 acres.

Haw River - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
33	5-5-08	Annexing a certain tract or parcel of land in Haw River Township, Alamance County, adjoining the lands of Town of Haw River existing corporate limits line, Haw River-Hopedale Road, Charles M. Cox, Cox Properties, and others.
34	2-6-12	Annexing a certain tract or parcel of land in Graham and Haw River Townships, Alamance County, adjoining the lands of Debra M. Hartnett, Myra Cates, Michael J. Waggoner, Samuel Paige Jones, Shirley Hawks, Linda C. Norton, Diane C. Eckland and Jennifer Vizas, The Challenge of Alamnce County, LLC, The Challenge Golf Community, Inc., Town Branch Road and others.
35	4-2-12	Annexing property belonging to Holmes Electrical Service legally described as Alamance County Tax Map 13-21-2G.

TABLE II: FRANCHISES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
- -	3-1-83	Granting a cable television franchise to American Television and Communications Corporation.
- -	3-1-83	Granting a cable television franchise to Tarheel Cablevision, Inc.

TABLE III: ZONING MAP CHANGES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
- -	7-1-96	Amending the zoning map to extend the zoning ordinance, subdivision regulations, and building inspection jurisdiction for a distance of one mile to the northwest from the corporate limits of the town.

PARALLEL REFERENCES

References to North Carolina General Statutes

References to 1987 Code

References to Resolutions

References to Ordinances

REFERENCES TO NORTH CAROLINA GENERAL STATUTES

<i>G.S. Section</i>	<i>Code Section</i>
1A-1, Rule 4	158.10
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14-4	90.99, 94.99, 97.99, 151.54, 151.56, 155.999, 156.99, 158.10
14-4(a)	10.99, 96.99
14-4(b)	72.99
14-202.10	155.006, 155.086
14-288.1 - 14-288.20	Ch. 35
14-288.4(a)	90.05
14-288.12	35.03
14-288.16	35.03, 35.05
15-27.2	157.27
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18B-1001	131.03
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20-4.01	70.01
20-141	71.25
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20-141.1	Ch. 73
20-158	70.21
20-162	72.04
20-168	70.03
20-219.9	95.05
20-219.11(a),(b)	95.05
39-32.1 - 39-32.4	154.66
44A-4	95.07
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47-30	154.29
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63-1	158.14
63-79(1)	158.14
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89C-3(7)	155.253
Ch. 90, Art. 36	155.006

Haw River - Parallel References

<i>G.S. Section</i>	<i>Code Section</i>
Ch. 105, Art. 5, Subchapter 1	36.08, 36.99
Ch. 105, Subchapter VIII	36.99
105-187.1(3)	36.01
105-349(g)	31.05
105-350	31.05
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105-373	31.05
122C-3(11b)	155.006
Ch. 130A, Art. 9	152.05, 155.227
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130A-290(a)(35)	152.05
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Ch. 143, Art. 21, Part 6	152.01
Ch. 143, Art. 33C	30.01
143-136 - 143-143.2	150.25
143-138(e)	150.01
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143-143.2	150.25
143-143.15	152.41
143-151.8 - 143-151.21	150.25
143-151.13(c)	150.75
143-212	157.11, 158.14
143-213(18)	52.002
143-214.7	157.02, 157.46
143-214.10	158.09
143-215.1	52.002, 52.999
143-215.3(a)(14)	52.002
143-215.6A	155.999
143-215.6A(b1)	52.999
143-215.6B	52.999, 158.10
143-354(a)(1)	53.01
143-355(1)	53.01

<i>G.S. Section</i>	<i>Code Section</i>
Ch. 150B, Art. 3, 4	158.07, 158.09
Ch. 153A, Art. 18	158.01, 158.09
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Ch. 160A, Art. 16	52.001
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Ch. 160A, Art. 19, Part 6	151.01
Ch. 160A, Art. 19, Part 8	152.01
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160A-183	Ch. 93
160A-184	Ch. 94
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