TOWN OF INDIAN TRAIL, NORTH CAROLINA

CODE OF ORDINANCES

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AMERICAN LEGAL PUBLISHING CORPORATION

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PUBLISHERS'S ACKNOWLEDGMENT

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

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

AMERICAN LEGAL PUBLISHING CORPORATION

Stephen G. Wolf, Esq.
President

TOWN OFFICIALS

OF

INDIAN TRAIL, NORTH CAROLINA

MAYOR	Sandy Moore
MAYOR PRO TEM	Theron Q. Kindley
COUNCIL MEMBER	Mercedes Cass
COUNCIL MEMBER	Donald Helms
COUNCIL MEMBER	Ray Killough
COUNCIL MEMBER	Lane Vickery
TOWN MANAGER	John Munn
TOWN ATTORNEY	Shawna Collins
TOWN CLERK	Karen B. Price

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ADOPTING ORDINANCE

An ordinance adopting and enacting a revised code for the Town of Indian Trail; providing for the repeal of certain ordinances not included therein and for a recodification of ordinances included therein.

BE IT ORDAINED by the Town Council of the Town of Indian Trail, North Carolina:

Section 1. The Code entitled "Town of Indian Trail, North Carolina Code of Ordinances" published by the American Legal Publishing Corporation consisting of titles I, III, V, VII, IX, XI, XIII, and XV, and including table of special ordinances, parallel references and an index, is hereby adopted.

Section 2. All prior ordinances pertaining to the subjects treated in the Code shall be deemed repealed from and after the effective date of the Code except as they are included and reordained in whole or in part in said Code; provided that such repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of the Code, nor shall such repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchise or granting special rights to certain persons, authorizing public improvements, authorizing issuance bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plats or dedications of land to public use, naming, vacating, closing or setting the boundaries of streets, alleys or other public places, any technical ordinances as defined by the North Carolina General Statutes, including but not limited to zoning ordinances, subdivision ordinances, building codes or any ordinances adopted but not required to be published in the Code of General Ordinances as permitted by North Carolina General Statutes, and such ordinances shall not be affected by this ordinance.

Section 3. Amendments or additions to the Code when passed in the form as to indicate the intention of the Town Council to make the same a part of the Code shall be deemed incorporated in the Code, so that references to the Code include the additions and amendments, and may be incorporated into the Code without further action of the Town Council.

PASSED AND ADOPTED by the Town Council of the Town of Indian Trail, this 12th day of October, 2004.

/s/ Sandy B. Moore
Mayor

/s/ Karen B. Price
Town Clerk

TOWN CHARTER

TOWN CHARTER

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ARTICLE I. INCORPORATION AND CORPORATE POWERS

Section 1.1 Incorporation and General Powers.

The Town of Indian Trail shall continue to be a body politic and corporate under the name and style of the "Town of Indian Trail", and shall continue to be vested with all property and rights which now belong to the Town; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or

otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

Section 1.2 Exercise of Powers.

All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Town Council and as provided by the general laws of North Carolina pertaining to municipal corporations.

Section 1.3 Enumerated Powers Not Exclusive.

The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Indian Trail shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

ARTICLE II. CORPORATE BOUNDARIES

Section 2.1 Existing Corporate Boundaries.

The corporate boundaries of the Town of Indian Trail shall be as follows until changed in accordance with law:

All that territory lying and being within a circle, the radius being one-half mile from a point at the center of the Rural Paved Road No. 1008 crossing the centerline of the track of the Seaboard Coast Line Railroad Company at said place.

Section 2.2 Extension of Corporate Boundaries.

All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

ARTICLE III. MAYOR AND TOWN COUNCIL

Section 3.1 Mayor and Mayor Pro Tempore.

The Mayor shall be elected by and from the qualified voters of the Town voting at large in the manner provided in Article IV. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Town Council. When there is an equal division upon any question, or in the appointment of officers, by the Council, the Mayor shall determine the matter by his vote, and shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Town Council shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Council.

Section 3.2

The three Town Council members elected at the regular 1969 election shall serve in such capacity until the regular 1971 election. Beginning in 1971, the Town Council shall consist of five members elected in the manner provided in Article IV.

Section 3.3 Terms; Qualifications; Vacancies.

(a) Beginning with the regular election in 1971, the Mayor and the members of the Town Council shall serve for terms of four (4) years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or be elected as Mayor or as a member of the Town Council or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) If any elected Mayor or Councilman shall refuse to qualify, or if there shall be a vacancy in the office of Mayor or Councilman, after election and qualification, the remaining members of the Council shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term. Any mayor or Councilman so appointed shall have the same authority and powers as if regularly elected.

Section 3.4 Compensation of Mayor and Councilmen.

The Mayor shall receive for his services such salary as the Town Council shall determine, but no reduction in his salary shall be made to take effect during the term in which it is voted. The Council may

establish a salary for its members which may be increased or reduced, but no reduction shall be made to take effect as to any Councilman during the respective term of office which he is serving at the time the reduction is voted.

Section 3.5 Organization of Council; Oaths of Office.

The Town Council shall meet and organize for the transaction of business at a time established by ordinance, following each biennial election and prior to July 1. Before entering upon their offices, the Mayor and each Councilman shall take, subscribe, and have entered upon the minutes of the Council the following oath of office:

"I, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully perform the duties of the office of _____ , on which I am about to enter, according to my best skill and ability; so help me, God."

Section 3.6 Meetings of Council.

(a) The Town Council shall fix suitable times for its regular meetings, which shall be as often as once monthly. Special meetings may be held on the call of the Mayor or a majority of the Council, and those not joining in the call shall be notified in writing. Any business may be transacted at a special meeting that might be transacted at a regular meeting.

(b) All meetings of the Council shall be open to the public. The Council shall not by executive session or otherwise formally consider or vote upon any question in private session.

Section 3.7 Quorum; Votes.

(a) A majority of the members elected to the Town Council shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance.

(b) The affirmative vote of a majority of the members of the Town Council shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority vote of those present and voting.

Section 3.8 Ordinances and Resolutions.

The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the

Council. The enacting clauses of all ordinances shall be: "Be it ordained by the Town Council of the Town of Indian Trail". All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

ARTICLE IV. ELECTION PROCEDURE

Section 4.1 Regular Municipal Elections.

Regular municipal elections shall be held on the Tuesday after the first Monday in May of each odd-numbered year, beginning in 1971. In the regular 1971 election, there shall be elected by the qualified voters of the Town voting at large a Mayor and five (5) Councilmen. The candidate for Mayor who receives the largest number of votes cast for Mayor shall be declared elected for a term of four (4) years. The three (3) candidates for Councilman who receive the largest numbers of votes cast for Councilman shall be declared elected for terms of four (4) years, and the two (2) candidates for Councilman who receive the next largest numbers of votes cast for Councilman shall be declared elected for terms of two (2) years. In the regular 1973 election and quadrennially thereafter, there shall be elected by the qualified voters of the Town voting at large two (2) Councilmen to serve for terms of four (4) years. In the regular 1975 election and quadrennially thereafter, there shall be elected by the qualified voters of the Town voting at large a Mayor and three (3) Councilmen to serve for terms of four (4) years. In case of a tie between opposing candidates, the election officials shall determine the result by lot.

Section 4.2 Voting.

In the regular 1971 election, each voter shall be entitled to vote for one (1) candidate for Mayor and for five (5) candidates for Councilman. In the regular 1973 election and quadrennially thereafter, each voter shall be entitled to vote for two (2) candidates for Councilman. In the regular 1975 election and quadrennially thereafter, each voter shall be entitled to vote for one (1) candidate for Mayor and for three (3) candidates for Councilman.

Section 4.3 Filing of Candidates.

Each qualified person who would offer himself as a candidate for the office of Mayor or Councilman shall file with the Town Clerk a statement giving notice of his candidacy. Such notice shall be filed not

earlier than the eighth Friday nor later than five o'clock p.m. on the third Friday preceding the election at which he offers his candidacy, shall be accompanied by payment of a filing fee of five dollars ($5.00), shall be signed in the presence of the Town Clerk or his designee, and shall be substantially in the following form:

"I do hereby give notice that I am a candidate for election to the office of _____, Town of Indian Trail, to be voted on at the election to be held on _____, and I hereby request that my name be placed on the official ballot for such office. I certify that I am a resident and qualified voter of the Town of Indian Trail, residing at _____.
Date:_____. (Signature)_____."

Section 4.4 Ballots.

No names other than those of candidates who have properly filed notice as herein required shall be printed upon the ballots for any municipal election.

Section 4.5 Regulation of Elections.

All municipal elections shall be conducted in accordance with the general laws of North Carolina relating to municipal elections, except as otherwise herein provided.

ARTICLE V. TOWN ATTORNEY

Section 5.1 Appointment; Qualifications; Term; Compensation.

The Town Council shall appoint a Town Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Council and shall receive such compensation as the Council shall determine.

Section 5.2 Town Attorney.

The Council shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties as required by law or as the Council may prescribe.
(Session Laws of 1969, Ch. 825)

ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES

Section 6.1 Town Clerk.

The Town Council shall appoint a Town Clerk to keep a journal of the proceedings of the Town Council and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Council may direct.

Section 6.2 Town Tax Collector.

The Town Council may appoint a Tax Collector to collect all taxes, licenses, fees and other moneys belonging to the Town, subject to the provisions of this Charter and the ordinances of the Town, and he shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

Section 6.3 Town Accountant.

The Town Council may appoint a Town Accountant to perform the duties of the Accountant as required by the Municipal Fiscal Control Act.

Section 6.4 Consolidation of Functions.

The Town Council may, in its discretion, consolidate the functions of any two or more of the positions of Town Clerk, Town Tax Collector, and Town Accountant, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions. The Council may also, in its discretion, designate a single employee to perform all or any part of the functions of any of the named positions, in lieu of appointing several persons to perform the same.

Section 6.5 Other Employees.

The Town Council may create and fill by appointment the position of Town Manager to supervise all Town departments, and may, in its discretion, delegate to the Town Manager the power of appointment and removal of department heads and employees, other than the Town Attorney.

ARTICLE VII. FINANCE AND TAXATION

Section 7.1 Custody of Town Money.

All moneys received by the Town for or in connection with the business of the Town government shall be paid promptly into the Town depository or depositories. Such institutions shall be designated by the Town Council in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by the General Statutes of North Carolina. All interest on moneys belonging to the Town shall accrue to the benefit of the Town. All moneys belonging to the Town shall be disbursed only in accordance with the provisions of the Municipal Fiscal Control Act.

Section 7.2 Issuance of Bonds.

The Town may issue its bonds for the purposes and in the manner prescribed by the General Statutes of North Carolina relating to the issuance of bonds by municipalities.

Section 7.3 Purchases and Contracts.

Purchases of apparatus, supplies, materials, and equipment, and contracts for construction or repair work, shall be made in accordance with the General Statutes of North Carolina relating thereto.

Section 7.4 Independent Audit.

As soon as practicable after the close of each fiscal year, an independent audit shall be made of all books and accounts of the Town government by a certified public accountant or a qualified public accountant registered under Chapter 93 of the General Statutes of North Carolina, who shall have no personal interest directly or indirectly in the affairs of the Town or of any of its officers. The Town Council shall select the public accountant, and the results of such audit shall be made available for inspection by any interested citizen of the Town, and may be published if so ordered by the Town Council.

ARTICLE VIII. CLAIMS AGAINST THE TOWN

Section 8.1 Presentation of Claims; Suit Upon Claims.

(a) All claims or demands against the Town of Indian Trail arising in tort or in contract shall be presented to the Town Council in writing, signed by the claimant, his attorney or agent, within ninety

days after the claim or demand is due or the cause of action accrues, and no suit or action shall be brought thereon within thirty days or after the expiration of twelve months from the time said claim or demand is so presented. Unless the claim or demand is so presented within ninety days after the cause of action accrues, and unless suit is brought within twelve months thereafter, any action thereon shall be barred.

(b) No action shall be instituted against the Town on account of damages to or compensation for real property taken or used by the Town for any public purpose, or for the ejectment of the Town therefrom, or to remove a cloud upon the title thereof; unless, within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the Town Council of the claim, stating in the notice the date that the alleged use commenced, a description of property alleged to have been used, and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (A) and (B) of this Section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the happening or the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the happening or the infliction of the injury complained of; whichever is the longer period. The Town may at any time request the appointment of a next friend to represent any person having a potential claim against the Town and known to be suffering from physical or mental incapacity.

ARTICLE IX. MISCELLANEOUS PROVISIONS

Section 2

The purpose of this Act is to revise the Charter of the Town of Indian Trail and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this Act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Section 3

This Act shall not be deemed to repeal, modify, nor in any manner to affect any of the following acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Indian Trail;

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Section 4

The following acts or portions of acts, having served the purposes for which enacted, or having been consolidated into this Act, are hereby repealed: Chapter 322, Private Laws, 1907; Chapter 492, Public-Local Laws, 1911.

Section 5

No provision of this Act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this Act;

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this Act.

Section 6

No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this Act that disclaims an intention to repeal or affect enumerated or designated laws.

Section 7

(a) All existing ordinances and resolutions of the Town of Indian Trail, and all existing rules or regulations of departments or agencies of the Town of Indian Trail, not inconsistent with the provisions of this Act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this Act by or against the Town of Indian Trail or any of its departments or agencies shall be abated or otherwise affected by the adoption of this Act.

Section 8 Severability.

If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Section 9

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

Section 10

This Act shall be effective upon its ratification.

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

Section

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10.03 Application to future ordinances
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10.06 Rules of interpretation
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10.14 Ordinances unaffected
10.15 Effective date of ordinances
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10.17 Ordinances which amend or supplement code
10.18 Section histories; statutory references

10.99 General penalty

§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the Town of Indian Trail shall be designated as the Code of Indian Trail, 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.

CHARTER. The Charter of the Town of Indian Trail, North Carolina.

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

COUNTY. Union County, North Carolina.

GOVERNOR. The Governor of North Carolina.

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

MAY. The act referred to is permissive.

MONTH. A calendar month.

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

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

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

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

PERSONAL PROPERTY. Every species of property except real property.

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

PROPERTY. Includes real and personal property.

REAL PROPERTY. Includes lands, tenements and hereditaments.

SHALL. The act referred to is mandatory.

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

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

STATE. The State of North Carolina.

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

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

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

TOWN. The Town of Indian Trail, North Carolina.

TOWN COUNCIL. The governing body of the Town of Indian Trail, North Carolina.

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

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 RULES OF INTERPRETATION.

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

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

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

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

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

§ 10.07 SEVERABILITY.

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

§ 10.08 REFERENCE TO OTHER SECTIONS.

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

§ 10.09 REFERENCE TO OFFICES.

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

§ 10.10 ERRORS AND OMISSIONS.

(A) 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, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published.

(B) No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.11 OFFICIAL TIME.

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

§ 10.12 REASONABLE TIME; COMPUTING TIME.

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

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

§ 10.13 ORDINANCES REPEALED.

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

§ 10.14 ORDINANCES UNAFFECTED.

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

§ 10.15 EFFECTIVE DATE OF ORDINANCES.

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

§ 10.16 REPEAL OR MODIFICATION OF ORDINANCES.

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

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

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

§ 10.17 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

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

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

(C) If a new section not heretofore existing in the code is to be added, language substantially similar to the following shall be used: "The Code of Ordinances, Town of Indian Trail, North Carolina, is hereby amended by adding a section, to be numbered _____, which section shall read as follows:...." The new section shall then be set out in full as desired.

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

§ 10.18 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, when available, 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 5-13-1960; Am. Ord. 15, passed 1-1-1970; Am. Ord. 20, passed 1-1-1980; Am. Ord. 25, passed 1-1-1985)

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

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

§ 39.01 PUBLIC RECORDS AVAILABLE.

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

Statutory reference:

Inspection of public records, see G.S. §§ 139-1 et seq.

§ 10.99 GENERAL PENALTY.

(A) Any person, firm or corporation violating any of the provisions of any section or subsection of this code of ordinances for which no other penalty is provided, or failing or neglecting or refusing to comply with same, shall, upon conviction, be guilty of a Class 3 misdemeanor and subject to a fine not to exceed $50 or imprisonment not to exceed 30 days, and each day that any of the provisions of this code of ordinances are violated shall constitute a separate offense.
(G.S. § 14-4(a))

(B) If any person shall violate an ordinance of this code regulating the operation or parking of vehicles, that person shall be responsible for an infraction and shall be required to pay a penalty of not more than $50.
(G.S. § 14-4(b))

Statutory reference:

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

TITLE III: ADMINISTRATION

Chapter

30. GENERAL MUNICIPAL POLICIES

31. EMERGENCY SERVICES AND MANAGEMENT

CHAPTER 30: GENERAL MUNICIPAL POLICIES

Section

30.01 Town Council monthly meetings
30.02 Smoking in municipal buildings and vehicles

§ 30.01 TOWN COUNCIL MONTHLY MEETINGS.

The second Tuesday in each month at 7:00 p.m. in the Civic Building in Indian Trail, North Carolina, shall be and it is hereby designated as the regular monthly meeting time and place of the Town Council.
(Res. 1, passed - -)

§ 30.02 SMOKING IN MUNICIPAL BUILDINGS AND VEHICLES.

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

SMOKING. The inhaling, exhaling, burning, or carrying of a lighted pipe, cigar, cigarette or other combustible tobacco product.

(B) It shall be unlawful for any person to smoke in any building or facility or portion of a building or facility now or hereafter owned, leased, operated, occupied, managed or controlled by the town.

(C) It shall be unlawful for any person to smoke in any vehicle now owned or hereafter owned or leased by the town.
(Ord. passed 9-9-1993) Penalty, see § 10.99

CHAPTER 31: EMERGENCY SERVICES AND MANAGEMENT

Section

31.01 State of emergency deemed to exist; conditions
31.02 Proclamation by Mayor
31.03 Restrictions during emergency
31.04 Violations prohibited
31.05 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

§ 31.01 STATE OF EMERGENCY DEEMED TO EXIST; CONDITIONS.

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.
(G.S. §§ 166A-4, 166-8) (Ord. 26, passed 9-10-1996)

§ 31.02 PROCLAMATION BY MAYOR.

(A) (1) 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, or the Mayor Pro Tem if the Mayor is unavailable, 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.

(2) Further, the Mayor, or the Mayor Pro Tem if the Mayor is unavailable, is authorized to communicate and coordinate with the County Emergency Management Agency for any professional, technical, mechanical or any type or kind of assistance the town may require due to the declared emergency.

(B) The Mayor, or the Mayor Pro Tem if the Mayor is unavailable, is hereby authorized and empowered to limit by the proclamation the application of all or any part of the 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;

employees; doctors, nurses, and employees of hospitals and other medical facilities; on-duty military personnel, whether state or federal; on-duty employees of public utilities, public transportation companies; newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit; and other classes of persons as may be essential to the preservation of public order immediately necessary to serve the safety, health, and welfare needs of the people within the town. (Ord. 26, passed 9-10-1996)

§ 31.03 RESTRICTIONS DURING EMERGENCY.

(A) During the existence of a proclaimed state of emergency, the Mayor, or the Mayor Pro Tem if the Mayor is unavailable, 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 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 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 manner during the continued threatened existence of a state of emergency by the issuance of a subsequent proclamation. (Ord. 26, passed 9-10-1996)

Statutory reference:

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

§ 31.04 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. (Ord. 26, passed 9-10-1996) Penalty, See § 10.99

§ 31.05 PROCLAMATION OF END OF STATE OF EMERGENCY.

The Mayor, or the Mayor Pro Tem if the Mayor is unavailable, 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.
(Ord. 26, passed 9-10-1996)
Statutory reference:
Rescission of proclamations, see G.S. § 14-288.16

TITLE V: PUBLIC WORKS

Chapter

50. SOLID WASTE

CHAPTER 50: SOLID WASTE

Section

50.01 Solid waste and recyclables; residential collection

§ 50.01 SOLID WASTE AND RECYCLABLES; RESIDENTIAL COLLECTION.

(A) The town is hereby authorized to contract with private contractor or contractors for the collection of residential solid waste including recyclables all upon the terms and conditions as may be negotiated with a private contractor and approved by the Town Council.

(B) A fee for residential collection shall be assessed pursuant to the provision of G.S. § 160A-314 and may be billed with property taxes and may be collected in the same manner by which delinquent personal or real property taxes can be collected and the fees shall be a lien on the real property described on the bill that includes the fee.

(C) (1) Initially, the monthly fee for the collection shall be $5; the fee shall be billed on a quarterly basis; and if not paid within ten days after the first day of each quarter, shall bear interest at the same rate that delinquent real and personal property taxes bear interest.

(2) Further, upon failure of resident to pay the fee, resident's trash collection container and/or recyclables container will be collected by and returned to the town at a cost of $10 to the resident.

(3) The cost shall be added to the resident's delinquent bill and collected in the manner set forth in division (B) above of this section.

(D) (1) Any resident of the town may elect not to participate in the solid waste collection property provided by the town.

(2) The election shall be made by written notice delivered to the Town Clerk by the resident and participation in the program shall terminate on the last day of the month during which the notice was delivered.

(Ord. 31, passed 10-13-1998; Am. Ord. passed 6-8-1999)

TITLE VII: TRAFFIC CODE

Chapter

70. TRAFFIC RULES

71. PARKING REGULATIONS

72. TRAFFIC SCHEDULES

73. PARKING SCHEDULES

CHAPTER 70: TRAFFIC RULES

Section

70.01 Driving from street to street across property at intersection
70.02 Failure to stop
70.03 Traffic control photographic system

70.99 Penalty

§ 70.01 DRIVING FROM STREET TO STREET ACROSS PROPERTY AT INTERSECTION.

It shall be unlawful for any person driving a motor vehicle to drive the motor vehicle across or through the property, publicly or privately owned, from one street to another, at intersections within the town limits, unless the vehicle is driven upon the property for the purpose of having the vehicle serviced or for the purpose of making purchases of merchandise upon the property.
(Ord. 21, passed 8-13-1996) Penalty, see § 70.99

§ 70.02 FAILURE TO STOP.

The failure of the driver of a motor vehicle to stop the motor vehicle on publicly or privately owned property at an intersection when driving from street to street shall be deemed to be prima facie evidence that the motor vehicle was being driven upon and across the property for the convenience of the driver of the motor vehicle in driving from one street to another.
(Ord. 21, passed 8-13-1996) Penalty, see § 70.99

§ 70.03 TRAFFIC CONTROL PHOTOGRAPHIC SYSTEM.

(A) The Town Council ordains that the town implement a system for capturing traffic control violations, as defined under G.S. § 20-158, with a traffic control photographic system that will use the photographic images as prima facie evidence of the traffic violations and will authorize the Union County Sheriff's Department or an agent of the town to issue civil citations for the violations.

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

IN OPERATION. This term means a system operating in good working condition.

SYSTEM LOCATION. The approach to an intersection toward which a photographic, video or electronic camera is directed and is in operation.

TRAFFIC CONTROL PHOTOGRAPHIC SYSTEM. An electronic system consisting of a photographic, video, or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic control and to automatically produce photographs, video or digital images of each vehicle violating a standard traffic control.

VEHICLE OWNER. The person identified, by the North Carolina Division of Motor Vehicles, as the registered owner of a vehicle.

(C) (1) The Municipal Management Team as defined by the Interlocal Agreement shall oversee the Traffic Control Photographic Program and shall maintain a list of system locations where traffic control photographic systems are installed.

(2) Any citation for a violation of G.S. § 20-158 issued by an officer of the Union County Sheriff's Department or an agent of the town at a system location shall be treated in the manner as prescribed in this section.

(3) The citation shall clearly state the manner in which the violation may be appealed. The citation shall be processed by officials or agents of the town and shall be forwarded by personal service or first-class mail to the owner's address as given on the motor vehicle registration.

(D) (1) It shall be unlawful for a vehicle to cross the stop line at a system location when the traffic signal for that vehicle's direction of travel is emitting a steady red light, or for a vehicle to violate any other traffic regulation specified in G.S. § 20-158.

(2) The owner of a vehicle shall be responsible for a violation under this section, except when the owner can provide evidence that the vehicle was in the care, custody, or control of another person at the time of the violation, as described in (D)(3) of this section.

(3) Notwithstanding (D)(2) of this section, the owner of the vehicle shall not be responsible for the violation if, within 21 days after notification of the violation, the owner furnishes to the officials or agents of the town:

(a) The name and address of the person or entity who leased, rented, or otherwise had the care, custody, and control of the vehicle at the time of the violation; or

(b) An affidavit by the owner of the vehicle stating that, at the time of the violation, the vehicle involved was stolen or was in the care, custody, or control of some person who did not have the owner's permission to use the vehicle.

(E) A notice of appeal shall be filed within 21 days after notification of the violation. The failure to give notice of appeal within this time period shall constitute a waiver of the right to contest the citation. Appeals shall be heard through an administrative process established by the town. An individual desiring a hearing must post a bond equal to the amount of the civil penalty before an appeal hearing will be scheduled. The hearing officer's decision is subject to review in the Superior Court of Union County by proceedings in the "nature of certiorari."
(Ord. 45, passed 3-11-2003) Penalty, see § 70.99

Statutory reference:

Authority to use traffic control photographic systems, see G.S. § 160A-300.1

§ 70.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Violation of §§ 70.01 and 70.02 shall be punished as an infraction with the maximum fine and cost as allowable by law.
(Ord. 21, passed 8-13-1996)

(C) Any violation of § 70.03 shall be deemed a noncriminal violation for which a civil penalty of $50 shall be assessed, and for which no points authorized by G.S. § 20-16(c) shall be assigned to the owner or driver of the vehicle. Failure to pay the civil penalty or file an appeal within 21 days after notification of the violation shall result in an additional penalty of $50. The town may establish procedures for the collection of the civil penalties and may enforce the penalties by a civil action in the nature of a debt.
(Ord. 45, passed 3-11-2003)

CHAPTER 71: PARKING REGULATIONS

Section

71.01 No parking zones

71.99 Penalty

Cross-reference:

Parking Schedules, see Chapter 73

§ 71.01 NO PARKING ZONES.

(A) (1) In residential areas and other areas where parking spaces are not marked on the pavement and not designated as no parking zones, all vehicles shall be parked parallel to the curb or the edge of the pavement and as far to the right of the centerline as possible, leaving at least 16 feet of clear unobstructed roadway for the safe passage of other vehicles.

(2) At no time may a vehicle be parked directly across from another vehicle unless there will be 16 feet of roadway open between the two vehicles.

(3) At no time should a vehicle be parked on the side of the street for more than two hours.

(B) Certain areas within the town shall be designated as "No Parking Zones for Commercial Vehicles" or "No Parking Zones."

(1) In areas designated "No Parking Zones," no commercial nor other vehicles shall park on or along the street so designated upon the shoulder or paved portion thereof.

(2) In any designated "No Parking Zone for Commercial Vehicles," commercial vehicles shall not park on any portion of a street, roadway or right-of-way owned, controlled or posted by the town.

(3) A ***COMMERCIAL VEHICLE***, as defined for this chapter, is any vehicle used primarily for commercial use, including but not limited to 18-wheel tractor trailers, any medium to heavy industrial or business work van or truck, or any other vehicle not used primarily for recreational or personal reasons.

(Ord. 43, passed 6-10-2003) Penalty, see § 71.99

§ 71.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Violation of this chapter carries with it the maximum fine allowable by law in addition to any associated costs of court.
(Ord. 43, passed 6-10-2003)

CHAPTER 72: TRAFFIC SCHEDULES

Schedule

I. Speed limits
II. Prohibited through traffic

SCHEDULE I. SPEED LIMITS.

The following street is designated by the town as a street for which a maximum speed limit is determined. All other streets or roads are regulated by the State Department of Transportation.

Street	*Location*	*Speed Limit*	*Ord. No.*	*Date Passed*
Navajo Trail	Within the Town of Indian Trail	25 mph	-	6-13-2000

Penalty, see § 10.99

SCHEDULE II. PROHIBITED THROUGH TRAFFIC.

(A) Trucks are prohibited as vehicular through traffic except as designated below.

Street	*Location*	*Special Provisions*
Arrow Drive	On the street	Emergency service vehicles
Arrow Drive	To or from the street	Pick-up trucks weighing less than 4,000 lbs., garbage collection trucks, courier or moving trucks taking or transporting goods or property
Catawba Circle N.	On the street	Emergency service vehicles
Catawba Circle N.	To or from the street	Pick-up trucks weighing less than 4,000 lbs., garbage collection trucks, courier or moving trucks taking or transporting goods or property
Catawba Circle S.	On the street	Emergency service vehicles
Catawba Circle S.	To or from the street	Pick-up trucks weighing less than 4,000 lbs., garbage collection trucks, courier or moving trucks taking or transporting goods or property
Navajo Trail	On the street	Emergency service vehicles
Navajo Trail Street	To or from the street	Pick-up trucks weighing less than 4,000 lbs., garbage collection trucks, courier or moving trucks taking or transporting goods or property

(B) Trucks are prohibited as through traffic, except as set out in division (A), on Catawba Circle S., Catawba Circle N., Arrow Drive, and Navajo Trail Streets in their entirety.
(Ord. passed 8-8-2000) Penalty, see § 10.99

CHAPTER 73: PARKING SCHEDULES

Schedule

I. No parking zones designated

Cross-reference:

Regulations for no parking zones, see § 71.01

SCHEDULE I. NO PARKING ZONES DESIGNATED.

For the purposes of this chapter, Navajo Trail is designated as a "No Parking Zone for Commercial Vehicles," and Redskin Drive and Park Road are designated as "No Parking Zones." (Ord 43, passed 6-10-2003; Am. Ord. 46, passed 6-24-2003) Penalty, see § 71.99

TITLE IX: GENERAL REGULATIONS

Chapter

90. ABANDONED VEHICLES

91. HEALTH AND SANITATION; NUISANCES

92. ANIMALS

CHAPTER 90: ABANDONED VEHICLES

Section

General Provisions

90.01 Definitions
90.02 Exceptions
90.03 Protection against criminal or civil liability

Prohibited Activity

90.15 Abandoned vehicle unlawful; removal authorized
90.16 Nuisance vehicle unlawful; removal authorized
90.17 Junked motor vehicle regulated; removal authorized
90.18 Unlawful removal of impounded vehicle

Administration; Enforcement

90.30 Administration
90.31 Removal of abandoned, nuisance or junked motor vehicles; pre-towing notice requirements
90.32 Exceptions to prior notice requirement
90.33 Removal of vehicles; post-towing notice requirements
90.34 Right to probable cause hearing before sale or final disposition of vehicle
90.35 Redemption of vehicle during proceedings
90.36 Sale and disposition of unclaimed vehicle
90.37 Conditions on removal of vehicles from private property

GENERAL PROVISIONS

§ 90.01 DEFINITIONS.

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

ABANDONED VEHICLE. As authorized and defined in G.S. § 160A-303, an ***ABANDONED MOTOR VEHICLE*** is one that:

(1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking;

(2) Is left on a public street or highway for longer than seven days;

(3) Is left on property owned or operated by the town for longer than 24 hours; or

(4) Is left on private property without the consent of the owner, occupant or lessee thereof for longer than two hours.

AUTHORIZING OFFICIAL. The Town Manager is designated to authorize the removal of vehicles under the provisions of this chapter.

JUNKED MOTOR VEHICLE. As authorized and defined in G.S. § 160A-303.2, the term ***JUNKED MOTOR VEHICLE*** means a vehicle that does not display a current license plate lawfully upon that vehicle and that:

(1) Is partially dismantled or wrecked;

(2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or

(3) Is more than five years old and appears to be worth less than $100.

MOTOR VEHICLE or ***VEHICLE.*** All machines designated or intended to travel over land by self-propulsion or while attached to any self-propelling vehicle.

NUISANCE VEHICLE. A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:

(1) A breeding ground or harbor for mosquitos, other insects, rats or other pests;

(2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height;

(3) A point of collection of pools or ponds of water;

(4) A point of concentration of quantities of gasoline, and oil or other flammable or explosive materials as evidenced by odor;

(5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, and the like;

(6) One which is so situated or located that there is a danger of it falling or turning over;

(7) One which is a point of collection or garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;

(8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or

(9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Town Council.
(Ord. 22, passed 8-12-1997)

§ 90.02 EXCEPTIONS.

Nothing in this chapter shall apply to any vehicle which is:

(A) Located in a bona fide "automobile graveyard" or "junkyard" as defined in G.S. § 136-143, in accordance with the Junkyard Control Act, G.S. §§ 136-141 *et seq.*;

(B) In an enclosed building;

(C) 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

(D) An appropriate storage place or depository maintained in a lawful place and manner by the town.
(Ord. 22, passed 8-12-1997)

§ 90.03 PROTECTION AGAINST CRIMINAL OR CIVIL LIABILITY.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle, for disposing of the vehicle as provided in this chapter.
(Ord. 22, passed 8-12-1997)

PROHIBITED ACTIVITY

§ 90.15 ABANDONED VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

(A) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow the vehicle to be abandoned as the term is defined herein.

(B) Upon investigation, the Authorizing Official of the town may determine that a vehicle is an abandoned vehicle and order the vehicle removed.
(Ord. 22, passed 8-12-1997) Penalty, see § 10.99

§ 90.16 NUISANCE VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

(A) It shall be unlawful for the registered owner, or person entitled to possession of a motor vehicle, or for the owner, lessee, or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.

(B) Upon investigation, the Authorizing Official may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined above, and order the vehicle removed.
(Ord. 22, passed 8-12-1997) Penalty, see § 10.99

§ 90.17 JUNKED MOTOR VEHICLE REGULATED; REMOVAL AUTHORIZED.

(A) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.

(B) (1) It shall be unlawful to have more than one junked motor vehicle, as defined herein, on the premises of public or private property.

(2) Single, permitted junked motor vehicle must strictly comply with the location and concealment requirements of this section.

(C) It shall be unlawful for any owner, person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to fail to comply with the locational requirements or the concealment requirements of this section.

(D) (1) Subject to the provisions of division (E), upon investigation, the Authorizing Official may order the removal of a junked motor vehicle as defined in this chapter after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner.

(2) The finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance.

(3) The following among other relevant factors may be considered:

(a) Protection of property values;

(b) Promotion of tourism and other economic development opportunities;

(c) Indirect protection of public health and safety;

(d) Preservation of the character and integrity of the community; and

(e) Promotion of the comfort, happiness and emotional stability of area residents.

(E) (1) One junked motor vehicle, in its entirety, can be located in the rear yard as defined by Chapter 154 herein if the junked motor vehicle is entirely concealed from public view from a public street and from abutting premises by an acceptable covering.

(2) Any other junked motor vehicle(s) must be kept in a garage or building structure that provides a complete enclosure so that the junked motor vehicle(s) cannot be seen from a public street or abutting property. A garage or building structure shall be erected pursuant to the lawful issuance of a building permit and which has been constructed in accordance with all zoning and building code regulations.

(3) The Authorizing Official has the authority to determine whether any junked motor vehicle is adequately concealed as required by this provision.

(4) (a) The covering must remain in good repair and must not be allowed to deteriorate.

(b) The covering or enclosure must be compatible with the objectives stated in the preamble of this chapter.
(Ord. 22, passed 8-12-1997) Penalty, see § 10.99

§ 90.18 UNLAWFUL REMOVAL OF IMPOUNDED VEHICLE.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the town any vehicle which has been impounded pursuant to the provisions of this chapter unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.
(Ord. 22, passed 8-12-1997) Penalty, see § 10.99

ADMINISTRATION; ENFORCEMENT

§ 90.30 ADMINISTRATION.

(A) The Town Manager shall be responsible for the administration and enforcement of this chapter.

(B) The Town Manager shall be responsible for administering the removal and disposition of vehicles determined to be abandoned on the public streets and highways within the town, and on property owned by the town.

(C) The Town Manager shall be responsible for administering the removal and disposition of abandoned, nuisance or junked motor vehicles located on private property.

(D) The town may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles and junked motor vehicles in compliance with this chapter and applicable state laws.

(E) Nothing in this chapter shall be construed to limit the legal authority or powers of officers of the town in enforcing other laws or in otherwise carrying out their duties.
(Ord. 22, passed 8-12-1997)

§ 90.31 REMOVAL OF ABANDONED, NUISANCE OR JUNKED MOTOR VEHICLES; PRE-TOWING NOTICE REQUIREMENTS.

(A) Except as set forth in § 90.32 below, an abandoned, nuisance or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle.

(B) In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail.

(C) The person who mails the notice(s) shall retain a written record to show the name(s) and address(es) to which mailed, and the date mailed.

(D) If the names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the town on a specified date no sooner than seven days after the notice is affixed.

(E) The notice shall state that the vehicle will be removed by the town on a specified date, no sooner than seven days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

(F) With respect to abandoned vehicles on private property, nuisance vehicles and junked motor vehicles to which notice is required to be given, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned, a nuisance vehicle or in the case of a junked motor vehicle that the aesthetic benefits of removing the vehicle outweigh the burdens, the appeal shall be made to the Town Council in writing, heard at the next regularly scheduled meeting of the Town Council, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.
(Ord. 22, passed 8-12-1997)

§ 90.32 EXCEPTIONS TO PRIOR NOTICE REQUIREMENT.

(A) The requirement that notice be given prior to the removal of an abandoned, nuisance or junked motor vehicle may, as determined by the Authorizing Official, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare.

(B) The findings shall, in all cases, be entered by the Authorizing Official in the appropriate daily records.

(C) Circumstances justifying the removal of vehicles without prior notice include:

(1) *Vehicles abandoned on the streets.* For vehicles left on the public streets and highways, the Town Council hereby determines that immediate removal of such vehicles may be warranted when they are:

(a) Obstructing traffic;

(b) Parked in violation of an ordinance prohibiting or restricting parking;

(c) Parked in a no stopping or standing zone;

(d) Parked in loading zones;

(e) Parked in bus zones; or

(f) Parked in violation of temporary parking restrictions imposed under code sections.

(2) *Other abandoned or nuisance vehicles.*

(a) With respect to abandoned or nuisance vehicles left on city-owned property other than the streets and highways, and on private property, the vehicles may be removed without giving prior notice only in those circumstances where the Authorizing Official finds a special need for prompt action to protect and maintain the public health, safety and welfare.

(b) By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property. (Ord. 22, passed 8-12-1997)

§ 90.33 REMOVAL OF VEHICLES; POST-TOWING NOTICE REQUIREMENTS.

(A) Any abandoned, nuisance or junked motor vehicle which has been ordered removed may, as directed by the Authorizing Official, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the town.

(B) Whenever such a vehicle is removed, the Authorizing Official shall immediately notify the last known registered owner of the vehicle, with such notice to include the following:

(1) The description of the removed vehicle;

(2) The location where the vehicle is stored;

(3) The violation with which the owner is charged, if any:

(4) The procedure the owner must follow to redeem the vehicle; and

(5) The procedure the owner must follow to request a probable cause hearing on the removal.

(C) The town shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in divisions (B)(1) through (B)(5) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or his or her agent.

(D) (1) If the vehicle is registered in the state, notice shall be given within 24 hours.

(2) If the vehicle is not registered in the state, notice shall be given to the registered owner within 72 hours from the removal of the vehicle.

(E) Whenever an abandoned, nuisance or junked motor vehicle is removed, and the vehicle has no valid registration or registration plates, the Authorizing Official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him or her of the information set forth in divisions (B)(1) through (B)(5) above.
(Ord. 22, passed 8-12-1997)

§ 90.34 RIGHT TO PROBABLE CAUSE HEARING BEFORE SALE OR FINAL DISPOSITION OF VEHICLE.

(A) After the removal of an abandoned vehicle, nuisance vehicle or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle.

(B) A request for hearing must be filed in writing with the County Magistrate designated by the Chief District Court Judge to receive such hearing requests, the Magistrate will set the hearing within 72 hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. § 20-219.11 as amended.
(Ord. 22, passed 8-12-1997)

§ 90.35 REDEMPTION OF VEHICLE DURING PROCEEDINGS.

(A) At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of the fees and charges to the tow truck operator or towing business having custody of the removed vehicle.

(B) Upon receiving possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this chapter.
(Ord. 22, passed 8-12-1997) Penalty, see § 10.99

§ 90.36 SALE AND DISPOSITION OF UNCLAIMED VEHICLE.

(A) Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle.

(B) Disposition of such a vehicle shall be carried out in coordination with the town and in accordance with G.S. §§ 44A-1 *et seq.*
(Ord. 22, passed 8-12-1997)

§ 90.37 CONDITIONS ON REMOVAL OF VEHICLES FROM PRIVATE PROPERTY.

(A) As a general policy, the town will not remove a vehicle from private property if the owner, occupant or lessee of the property could have the vehicle removed under applicable state law procedures.

(B) In no case will a vehicle be removed by the town from private property without a written request of the owner, occupant or lessee, except in those cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the Authorizing Official.

(C) The town may require any person requesting the removal of an abandoned, nuisance or junked motor vehicle from private property to indemnify the town against any loss, expense or liability incurred because of the removal, storage, or sale thereof.
(Ord. 22, passed 8-12-1997)

CHAPTER 91: HEALTH AND SANITATION; NUISANCES

Section

91.01 Nuisances enumerated
91.02 Complaint and investigation
91.03 Notice to abate
91.04 Failure of owner to abate; right of entry
91.05 Service of notice
91.06 Cost to be paid by owner and charges become lien on property
91.07 Defect in notice not to affect lien
91.08 Right of inspection
91.09 Appeal

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§ 91.01 NUISANCES ENUMERATED.

The following enumerated and described conditions are hereby found, deemed and declared to be and constitute a detriment, danger and hazard to health, safety, morals, and general welfare of the inhabitants of the town, and are found, deemed and declared to be public nuisances wherever the same may exist within the town, and the creation, maintenance, or failure to abate any of the nuisances is hereby declared unlawful:

(A) A place of dense or uncontrolled growth of weeds, grass or other noxious vegetation to a height in excess of 12 inches;

(B) An open place of concentration of combustible items, including but not limited to mattresses, boxes, paper, automobile tires, tubes, garbage, trash, refuse, brush, old clothes, rags, construction materials such as wood, insulation, sheet rock, or any other combustible materials or objects of a like nature;

(C) An open place of collection of garbage, food waste, animal waste or other rotten or putrescible matter of any kind;

(D) Any furniture, appliances, or metal products of any kind or nature, openly kept which have jagged edges of metal or glass or areas of confinement;

(E) 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;

(F) 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 of rats, mice, snakes, or vermin of any kind;

(G) Any condition which constitutes a breeding ground or harbor for rats, mosquitoes, harmful insects or other pests;

(H) Any condition which blocks, hinders or obstructs, in any way, the natural flow of branches, streams, creeks, surface waters, ditches or drains to the extent that the premises are not free from standing water, or create standing water on any other property; or

(I) Any condition detrimental to the public health, which violates the rules and regulations of the County Health Department as may be promulgated under G.S. §§ 130A-1 *et seq.*
(Ord. 17, passed 2-9-1989) Penalty, see § 91.99

§ 91.02 COMPLAINT AND INVESTIGATION.

The Town Manager, or such person as he or she authorizes, upon notice from any person of the existence of any of the conditions described in § 91.01 above, may request to be made by the appropriate County Health Department official, or town official, or such other person as the Town Manager may designate, such investigation as may be necessary to determine whether, in fact, the conditions exist as to constitute a public nuisance as declared in § 91.01 above.
(Ord. 17, passed 2-9-1989)

§ 91.03 NOTICE TO ABATE.

If the Investigating Official informs the Mayor that in his or her judgment, the conditions constituting a public nuisance exist, he or she shall describe the conditions and the measures necessary to correct same, in writing and the Mayor shall notify, in writing, the owner, occupant or person in possession of the premises in question of the conditions constituting the public nuisance and the measures necessary to correct same and shall order the prompt abatement thereof within 15 days from the receipt or posting of notice in accordance with § 91.05 below, provided that if, in the opinion of the

Investigating Official, the unlawful condition is such that it is of imminent danger or peril to the public, then the Mayor may without notice proceed to direct the abatement of same, and the cost thereof shall be charged against the property as is provided under § 91.06 below.
(Ord. 17, passed 2-9-1989)

§ 91.04 FAILURE OF OWNER TO ABATE; RIGHT OF ENTRY.

(A) If any person, having been ordered to abate such a public nuisance, fails, neglects or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of the order, or the posting of same, the Mayor shall cause the condition to be removed or otherwise remedied by having agents or 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 Council.

(B) (1) The authorized representative of the Mayor shall have the right of entry upon any facility where entry is necessary to carry out the provisions of this chapter.

(2) If consent for entry is not obtained, an administrative search and inspection warrant shall be obtained pursuant to G.S. § 15-27.2. However, if an imminent hazard to life, health, or the environment exists, no warrant is required for entry upon the premises.

(C) (1) Any person who has been ordered to abate a public nuisance may request in writing that the town remove the condition, the cost of which shall be paid by the person requesting the removal. Any request for removal by a person ordered to abate a public nuisance shall be made within the time allowed by this chapter.

(2) However, the town, in its discretion, and without cause, may refuse the request of the person ordered to abate the public nuisance. In such an event, it shall be the responsibility of the person ordered to abate the public nuisance to remove the condition, at his or her own cost.
(Ord. 17, passed 2-19-1989)

§ 91.05 SERVICE OF NOTICE.

(A) The owner of the subject property shall be notified of violation of this chapter, by personal delivery of the notice or by registered or certified mail, return receipt requested.

(B) If the owner refuses to accept notice of the violation, then the property shall be posted with notice.

(C) If the name of the owner cannot be ascertained by a reasonably diligent examination of the county tax records.
(Ord. 17, passed 2-19-1989)

§ 91.06 COST TO BE PAID BY OWNER AND CHARGES BECOME LIEN ON PROPERTY.

(A) Upon the removal and abatement of the public nuisance by the town, if the owner fails to do so within the time prescribed in §§ 91.03 and 91.04 above, the officer designated by the Council to supervise the abatement of the nuisance shall deliver to the Town Tax Collector a statement showing the actual cost of the abatement of the unlawful condition, plus an additional charge of $25 to cover the cost of notice and cost of collection.

(B) The Town Tax Collector shall thereupon mail by certified mail, return receipt requested to the owner of the subject property a statement covering the cost, if with reasonable diligence the name and address of the owner can be ascertained, and the amount of the bill shall immediately become a lien upon the subject property, and if not paid within 30 days, shall be collected as in the manner provided for the collection of delinquent taxes as provided in G.S. §§ 160A-193 *et seq.*
(Ord. 17, passed 2-19-1989)

§ 91.07 DEFECT IN NOTICE NOT TO AFFECT LIEN.

Any defect in the method of giving the notice required by § 91.05 above, or in the form thereof, or the giving of notice to an improper person, shall not prevent the town, in any case, where the work of abating an unlawful condition upon any property done, or caused to be done by the town, from collecting the costs thereof from the owner, nor shall it affect the validity of the lien on the property for the costs.
(Ord. 17, passed 2-19-1989)

§ 91.08 RIGHT OF INSPECTION.

The person or persons charged with the responsibility of inspection and abatement of the nuisance, are hereby given full power and authority to enter upon the premises involved for the purpose of inspecting and abating the nuisance found to exist as herein set out.
(Ord. 17, passed 2-19-1989)

§ 91.09 APPEAL.

(A) Within the 15 day period following receipt of notice of abatement, the owner of the property where the nuisance exists may appeal the findings of the Inspector to the Town Council, by giving

written notice of appeal to the Town Clerk; the appeal will stay the abatement of the nuisance by the town until a final determination is made by the Council.

(B) In the event no appeal is taken, the person or persons designated by the Mayor to abate the nuisance may proceed.
(Ord. 17, passed 2-19-1989)

§ 91.99 PENALTY.

(A) Pursuant to G.S. § 160A-175, any person, firm or corporation violating any provision of this chapter may be subject to a civil penalty not to exceed $50 per day, for each day that the violation exists, following the period permitted by the town to the offender to remedy the nuisance.

(B) Pursuant to G.S. § 160A-175, the town may file a civil action to recover the penalty, if the offender does not pay the penalty after the offender has been cited for violation of this chapter.

(C) Pursuant to G.S. § 160A-175, 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 the violation of this chapter.

(D) Pursuant to G.S. § 160A-175, the town may seek an injunction and an order of abatement commanding the offending to correct the unlawful condition upon or cease the unlawful use of the subject premises.

(E) The above remedies are cumulative, and the town may pursue any or all of same at its discretion.

(F) Violation of this chapter shall be a misdemeanor as provided by G.S. § 14-4, and the town may proceed in a criminal action to prosecute any violators; violation of this chapter is punishable by a fine of up to $50 or a term of imprisonment of ten days, or both in the discretion of the court.
(Ord. 17, passed 2-19-1989)

CHAPTER 92: ANIMALS

Section

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Editor's Note:

The town has adopted the county's animal control ordinance and the county enforces the ordinance.

GENERAL PROVISIONS

§ 92.01 SHORT TITLE.

This chapter shall be known and may be cited as "this chapter".
(Ord. 25, passed 9-14-1989)

§ 92.02 AUTHORITY.

This chapter is authorized by: G.S. §§ 67-4.1 *et seq.*, 67-30, 153A-121, 153A-123, 153A-127, 153A-131, and 130A-184 *et seq.*
(Ord. 25, passed 9-14-1989)

§ 92.03 PURPOSE.

The purpose of this chapter is to provide for the health, safety and welfare of the citizens of the county and to protect them from rabies transmitted by unconfined, uncontrolled or unimmunized dogs and cats, to regulate dogs and other animals that may be a nuisance or a danger to humans, and to insure that dogs and other animals are treated in a humane manner, and other purposes.
(Ord. 25, passed 9-14-1989)

§ 92.04 INTERFERENCE.

It shall be unlawful for any person to interfere with, hinder or molest the Chief Animal Control Officer, any animal control officer or other certified law officers, or their agents, or veterinarians, in the performance of any duty authorized by this chapter.
(Ord. 25, passed 9-14-1989) Penalty, see § 92.99

§ 92.05 UNSEIZABLE ANIMALS.

(A) Notwithstanding any other provision of this chapter to the contrary, an animal may be humanely destroyed by gunshot upon order of the Health Director.

(B) The Health Director may take such action if reasonably satisfied that:

(1) The animal cannot be seized by reasonable means;

(2) The owner of the animal cannot be identified; and

(3) The animal is injured or diseased, or the animal is a threat to the public health, or the animal is a chronic nuisance.
(Ord. 25, passed 9-14-1989)

§ 92.06 CONFLICT.

(A) Insofar as the provisions of this chapter are inconsistent with the provisions of any other law except a provision of state or federal law, the provisions of this chapter shall control.

(B) Whenever any provision of this chapter refers to or cites a section of the General Statutes and that section is later amended or superseded, the chapter shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.
(Ord. 25, passed 9-14-1989)

§ 92.07 COMPLAINTS.

A person or persons lodging a complaint or complaints relating to a violation of this chapter shall be responsible for filing the complaint with the appropriate judicial authority.
(Ord. 25, passed 9-14-1989)

§ 92.08 DEFINITIONS.

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

ANIMAL. Any live, vertebrate creature, wild or domestic, other than human beings, endowed with the power of voluntary motion.

ANIMAL CONTROL OFFICER. Any person or persons designated by the County Health Director to pick up, restrain, impound, destroy, care for, sell or dispose of animals, and who is responsible for discharging such other duties or functions as may be prescribed by this chapter or any other county ordinance or by state law or by the Health Director.

ANIMAL SHELTER. The facility provided and operated by the county for the purposes of the impoundment, restraint, care and disposition of animals.

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

BOARD. County Board of Commissioners.

CAT. A domestic feline of either sex.

DANGEROUS DOG.

(1) A dog that without provocation has killed or inflicted severe injury on a person;

(2) Any dog owned or harbored primarily or in part for the purpose of fighting, or any dog trained for dog fighting; or

(3) A potentially ***DANGEROUS DOG.***

DOG. A domestic canine of either sex.

HEALTH DIRECTOR. The Director of the Union County Health Department or authorized representative.

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

NEUTERED MALE. Any male which has been operated upon to prevent reproduction.

OWNER. Any person or legal entity that has a possessory property right in an animal.

OWNER'S OR KEEPER'S REAL PROPERTY. Any real property owned or leased by the owner or keeper of the dog, but does not include any public right-of-way or a common area of a condominium, apartment complex, or townhouse development.

POTENTIALLY DANGEROUS DOG. A dog that the Chief Animal Control Officer determines to have:

(1) Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization;

(2) Killed or inflicted severe injury upon a domestic animal when not on the owner's real property; or

(3) Approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.

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

SECURE ENCLOSURE. An enclosure from which an animal cannot escape. An animal control officer may, in his or her sole discretion, determine that there is a suitable ***SECURE ENCLOSURE*** on the premises.

SEVERE INJURY. Any physical injury that results in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization.

SPAYED FEMALE. Any female which has been operated upon to prevent reproduction.

STRAY ANIMAL. A domestic animal that roams at large with no apparent ownership.

VACCINATION. The administration of rabies vaccine issued by the United States Department of Agriculture and approved for use in North Carolina by the Commission for Health Services.

VETERINARY HOSPITAL. An establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

WILD ANIMALS. Those animals whose habitat is generally the woods or wilds, or whose disposition is untamable, including exotic or unusual pets.
(Ord. 25, passed 9-14-1989)

§ 92.09 ANIMAL CONTROL OFFICERS.

(A) (1) The Health Director may at his or her discretion appoint a Chief Animal Control Officer and one or more animal control officers.

(2) Positions must be approved by the Board and meet county and state personnel provisions.

(3) The Board may also appropriate funds from its general fund, or from other non-tax or surplus funds, so that the salaries and travel allowance of such personnel may be paid.

(B) The animal control officers shall:

(1) Have the responsibility with law enforcement agencies to enforce all laws of the state and all ordinances of the county pertaining to animal control and shall cooperate with all law enforcement officers within the county in fulfilling this duty;

(2) Enforce and carry out all laws of the state and all ordinances of the county pertaining to rabies control;

(3) Be responsible for the investigation of all reported animal bites; the quarantine, for a period of not less than ten days, of any dog or cat involved and suspected of having rabies; and for reporting to the Health Director as soon as practicable the occurrence of any such dog or cat bite and the condition of any quarantined dog or cat;

(4) Be responsible for the operation of the County Animal Shelter;

(5) Be responsible for the seizure and impoundment, where deemed necessary, of any dog or other animal in the county involved in a violation of this or any other county ordinance or any state law;

(6) Investigate cruelty or abuse with regard to animals;

(7) Make such canvasses of the county as necessary, including homes and property in the county, for the purpose of ascertaining compliance with this chapter or state statute;

(8) Keep, or cause to be kept, accurate detailed records of:

(a) Seizure, impoundment, and disposition of all animals corning into the custody of the animal control program;

(b) Bite cases, violation and complaints, and investigation of the same;

(c) All moneys belonging to the Health Department and/or county which are derived from fees, penalties, sales of animals, or other sources; and

(d) Any other matters deemed necessary by the Health Director.

(9) Be empowered to issue notices of violation of this chapter in such form as the Health Director may prescribe.
(Ord. 25, passed 9-14-1989)

§ 92.10 ADOPTION.

(A) *Procedure.*

(1) Any person adopting a dog or cat from the Animal Shelter shall be required to enter into an adoption contract with the county whereby the adopting party is required to have his or her dog or cat spayed or neutered.

(2) All adopting parties shall be required to pay an adoption fee of $65 per dog or puppy and $50 per cat or kitten, but shall not be required to pay any boarding or redemption fees.

(3) Upon payment of the adoption fee, the Animal Shelter shall provide to the adopting party a redeemable coupon which entitles the adopting party to visit any participating county veterinarian and receive for the adopted animals the medical services listed below at no additional charge by the veterinarian.

(4) Veterinary services shall be provided in two phases or visits.

(a) Phase I services shall expire 15 business days from the date of adoption.

(b) Phase II services shall expire six months from the date of the adoption.

(c) The adopting party shall secure Phase II services within 30 days of the date of adoption or at such time as the adopted animal attains six months of age, whichever period constitutes greatest duration.

(d) Phase I shall include:

1. A routine physical examination (dog/cat); and

2. A routine worming (dog/cat).

(e) Phase II shall include a routine spay or neuter, mandatory (dog/cat).

(5) Payment for the services by the county to the local veterinarian shall be processed by the Animal Shelter upon receipt of a completed and signed Dog/Puppy/Cat/Kitten Adoption Medical Contract (Phase I and II).

(6) At their own expense, persons adopting an animal shall have all age-appropriate animals vaccinated for rabies and shall submit proof of vaccination to participating veterinarians.

(7) The adopter of those animals turned in to the shelter which are known to be spayed or neutered shall pay to the Animal Shelter any applicable fee for the Phase I visit (routine physical examination).

(B) *Exchange of adopted animals.* The county shall agree to provide an exchange for any animal that requires major medical treatment, or dies from natural causes, within 30 days from the date of adoption under the following conditions:

(1) Any major medical treatment must be certified as being necessary by a licensed veterinarian;

(2) In the event that the adopted animal dies during the 30 days following adoption, the adopting party must present satisfactory evidence, such as, the carcass of the animal or a veterinarian's certification, of the date of the death of the animal;

(3) The request for an exchange must be made within 30 days from the date of the adoption contract; and

(4) The adopting party must bring the second adopted animal to a licensed veterinarian in accordance with the provisions of division (A) above within 15 working days of the execution of the adoption contract.
(Ord. 25, passed 9-14-1989)

ANIMAL CONTROL OFFENSES

§ 92.20 FEMALE DOGS AND CATS AT LARGE.

It shall be unlawful for any dog or cat owner to permit a female dog or cat to remain unconfined during the erotic stage of copulation such that she is in contact with other dogs or cats or attracts other animals; provided, this section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner of an animal which is being bred.
(Ord. 25, passed 9-14-1989) Penalty, see § 92.99

§ 92.21 ANIMAL WASTE.

The owner of an animal shall be responsible for the removal of any excreta deposited by his or her animal on public walks, recreation areas, or private property not his or her own, unless he or she has consent from the owner of the property.
(Ord. 25, passed 9-14-1989) Penalty, see § 92.99

§ 92.22 DANGEROUS DOGS.

(A) (1) The term "dangerous dog" shall include a potentially dangerous dog as determined by the Chief Animal Control Officer as per definition herein.

(2) Upon a preliminary determination that a dog is a potentially dangerous dog, the Chief Animal Control Officer shall notify the owner in writing, if known, giving the reasons for the determination, before the dog may be considered potentially dangerous under this section.

(3) The owner shall be provided a copy of this section and shall be required to sign a statement confirming receipt.

(4) (a) The owner may appeal the determination by filing written objections with the County Board of Health within three business days.

(b) The Board of Health shall schedule a hearing on this matter within ten days of the filing of objections.

(5) If a dog has been determined potentially dangerous and the dog's owner has appealed this determination to the Board of Health, or to Superior Court following a decision by the Board of Health, then the owner shall keep the dog in a secure enclosure pending the resolution of any final appeal.

(6) If a second complaint is filed against the dog while under confinement order pursuant to this division, animal control officers shall impound the dog pending resolution of any final appeal.

(7) The dog's owner shall be responsible for any boarding or other fees resulting from the impoundment.

(B) It shall be unlawful to own or keep a dangerous dog unless the following requirements have been met:

(1) The owner or keeper shall have a secure enclosure on the owner's property where the animal is maintained; or

(2) (a) The owner or keeper shall display a sign on the owner's or keeper's property warning that there is a dangerous dog on the premises, and the sign must be plainly visible from the public highway, street or other access.

(b) The sign shall have dimensions not less than 8½ inches by 11 inches and may be obtained from the Animal Shelter at cost.

(3) The owner or keeper shall notify an animal control officer within 24 hours if the dangerous dog becomes unconfined, or has attacked a human being or another animal.

(C) (1) It shall be unlawful for any person owning, harboring, or having care, custody or control of a dangerous dog to permit it outside of a secure enclosure unless necessary to obtain veterinary care for the dog, or to sell or give away the dog, or to comply with commands or direction of an animal control officer, or to comply with the provisions of this division.

(2) In such event, the dangerous dog shall be securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding more than three feet in length, and shall be under the direct control and supervision of the owner or keeper of the dangerous dog who must be physically able to restrain the animal.

(D) It shall be unlawful for the owner of a dangerous dog to transfer ownership or possession of the dog to another person without providing written notice to the Chief Animal Control Officer stating the name and address of the new owner or possessor, and written notice to the person taking ownership or possession of the dog indicating the dog's dangerous behavior, which notice shall be acknowledged in writing by the new owner and the acknowledgment delivered to the Chief Animal Control Officer.

(E) This section shall not apply to:

(1) A dog being used by a law enforcement officer to carry out the law enforcement officer's duties;

(2) A dog being used in a lawful hunt;

(3) A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner or keeper and the damage or injury was appropriate to the work of the dog; or

(4) A dog where the injury inflicted was sustained by a person who, at the time of the injury, was committing a willful trespass or other tort, was tormenting, abusing, or assaulting the dog, or was committing or attempting to commit a crime.

(F) In the event that the owner or keeper of the dangerous dog is a minor, the parent or guardian of the minor shall be held liable for noncompliance with the provisions of this section.
(Ord. 25, passed 9-14-1989) Penalty, see § 92.99

§ 92.23 PUBLIC NUISANCE ANIMALS.

(A) The actions of an animal constitute a public nuisance when that animal disturbs the rights of, threatens the safety of, or damages a member of the general public or interferes with the ordinary use and enjoyment of his or her property.

(B) (1) It shall be unlawful for any person to own, keep, possess or maintain an animal in such a manner so as to constitute a public nuisance.

(2) By way of example and not of limitation the following acts or actions by an owner or keeper are hereby declared to be a public nuisance and are therefore unlawful:

(a) Allowing or permitting the animal to damage the property of anyone other than its owner, including but not limited to turning over garbage containers or damaging gardens, flowers or vegetables;

(b) Maintaining a vicious dog or cat as described by the laws of the state;

(c) Maintaining animals in an environment of unsanitary conditions which results in offensive odors or is dangerous to the animals or to the public health, welfare or safety;

(d) Maintaining his or her property in a manner that is offensive, annoying or dangerous to the public health, safety or welfare of the community because of the number, type, variety, density or location of the animals on the property;

(e) Allowing or permitting the animal to bark, whine, or howl, in an excessive or continuous fashion or make noise in such a manner or at such times so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises;

(f) Maintaining an animal that is diseased and dangerous to the public health; and/or

(g) Maintaining an animal that habitually or repeatedly chases, snaps at, attacks or otherwise molests pedestrians, bicycles or vehicles.

(C) Compliance with this section shall be required as follows:

(1) (a) When an animal control officer, law enforcement officer, or person duly authorized by the Health Director observes or determines through investigative means that a violation has occurred, the owner or keeper will be provided written notification of the violation and will be given 24 hours from time of notification to abate the nuisance.

(b) The owner or keeper shall be required to provide a written statement to the animal control officer confirming that the nuisance has been abated.

(2) (a) Upon receipt of a written, detailed and signed complaint made to the Health Director by any person stating that any other person is maintaining a nuisance as defined in this section, the Health Director shall cause the owner or keeper of the animal or animals in question to be notified that a complaint has been received and shall cause the situation complained of to be investigated and a report and findings thereon to be reduced to writing.

(b) If the written findings indicate that the complaint is justified, then the Health Director or person duly authorized by the Health Director, shall cause the owner or keeper of the animal or animals in question to be so notified in writing, and ordered to abate the nuisance within 24 hours by whatever means necessary.

(c) The owner or keeper shall be required to provide a written statement to an animal control officer confirming that the nuisance has been abated.

(3) (a) In the event the owner or keeper of the animal or animals is unknown and cannot be ascertained, the animal shall be impounded.

(b) A notice and order, along with a general description of the animal or animals, shall be posted for 72 hours at the Animal Shelter.

(c) If the owner or keeper of the animal or animals remains unknown, the animal may be adopted according the provisions of this chapter or humanely destroyed.
(Ord. 25, passed 9-14-1989) Penalty, see § 92.99

§ 92.24 CRUELTY TO ANIMALS.

(A) (1) It shall be unlawful for any person to molest, torture, torment, deprive of necessary sustenance, cruelly beat, needlessly mutilate or kill, wound, injure, poison, abandon, or subject to conditions detrimental to its health or general welfare any animal, or to cause to procure such action.

(2) The words torture and torment shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted; but the terms shall not

be construed to prohibit lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission; nor to prohibit the animal control officers or persons duly authorized by the Health Director or veterinarians from destroying dangerous, unwanted or injured animals in a humane manner; nor to prohibit the lawful use of animals in scientific research.

(B) It shall be unlawful for any owner or keeper to fail to provide his or her animal or animals with proper shelter and protection from the weather, sufficient and wholesome food and water to keep his or her animal or animals in good health and comfort, the opportunity for vigorous daily exercise, veterinary care when needed to prevent suffering and humane care and treatment.

(C) (1) It shall be unlawful for any owner or keeper to harbor any animal for the purpose of fighting or to train, badger, bait or use any animal for the purpose of causing or encouraging the animal to unprovoked attacks upon human beings or domestic animals.

(2) By way of example and not of limitation, it shall be unlawful for any person to cause, instigate or permit any dog fight, cock fight, bull fight or other combat between animals or between animals and humans.

(D) (1) It shall be the duty of the owner or keeper of any animals that die, from any cause, and the owner, lessee or person in charge of any land upon which any animals die, to bury the dead animals to a depth of at least three feet beneath the surface of the ground, or to completely burn the animals, or to otherwise dispose of same in a manner approved by the State Veterinarian.

(2) It shall be unlawful for any person to remove the carcasses of dead animals from his or her premises to the premises of any other person without the written permission of the person having charge of the premises and without burying the carcasses as provided above.
(Ord. 25, passed 9-14-1989) Penalty, see § 92.99

§ 92.25 WILD ANIMALS.

(A) (1) This section shall apply to wild animals and exotic pets and owners of wild animals and exotic pets.

(2) Neither this section nor any other section of this chapter shall have the effect of permitting any activity or condition with respect to a wild animal or exotic pet which is prohibited or more severely restricted by state and federal statute or regulation.

(B) Wild animals and exotic pets and the owners of wild animals and exotic pets shall be subject to all of the same rules and regulations contained in this chapter except those which are applicable solely to dogs and cats and the owners of dogs and cats.

(C) (1) Because of the inherent danger in maintaining a secure enclosure for large wild animals and in order to protect the health, safety and welfare of the citizens of the county, it shall be unlawful to own, keep or possess a wild animal which exceeds 50 pounds in weight.

(2) Wild animals and exotic pets which do not exceed 50 pounds shall be maintained at all times in a secure enclosure on the owner's or keeper's property or, with consent, on the property of another.

(D) (1) All owners of wild animals and exotic pets shall be required to register their animals with an animal control officer within ten working days of acquisition.

(2) The registration shall be for informational and enforcement purposes and there shall be no fee for the registration.

(E) If a wild animal bites or attacks another animal or a human being it shall be humanely destroyed.
(Ord. 25, passed 9-14-1989) Penalty, see § 92.99

RABIES CONTROL

§ 92.35 IMMUNIZATION.

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

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

(3) Should state law applicable to rabies control be amended to include other types of animals in the class of those required to have rabies vaccinations, or should any other change inconsistent with this section be made, the amended law of the state shall apply.

(B) It shall be required that any dog or cat four months of age or younger be kept in a secure enclosure or be at all times under restraint of the owner or his or her agent.

(C) (1) It shall be unlawful for any dog or cat owner to keep any dog or cat four months of age or older unless:

(a) The dog or cat has been immunized against rabies in accordance with state law and with an approved anti-rabic vaccine administered by a licensed veterinarian; and

(b) The dog is wearing a collar with a valid rabies vaccination tag at all times.

(2) The tag shall have a number corresponding to the number of a rabies vaccination certificate in possession of the owner.

(3) Cats are hereby exempted from any requirement that they wear rabies vaccination tags; provided, however, that cat owners must demonstrate proof of vaccination upon request by an animal control officer.

(4) An owner complying with all of the requirements of this section need not display the rabies vaccination tag on a dog during the actual duration of organized hunting activities if:

(a) The dog is on private property with the consent of the owner of that property; and

(b) The owner or keeper is in actual physical possession of the rabies vaccination tag during the organized hunting activities.

(D) (1) Animal control officers may impound any dog found off the owner's or keeper's real property while not wearing the required vaccination tag.

(2) During the impoundment period, the animal control officer shall make a reasonable effort to locate the owner of the animal.

(3) If the animal is wearing an owner identification tag, or if the animal control officer is otherwise able to determine ownership of the animal, the animal control officer shall notify the owner in writing, and by more immediate means where reasonably possible.

(4) An animal impounded pursuant to this section shall be released to its owner upon payment of all applicable fees and upon agreement by the owner as follows:

(a) To have the animal vaccinated against rabies, if not already vaccinated; and

(b) To provide the required vaccination certificate to the animal control officer within three days of the animal's release.

(5) If an animal is released and the owner fails to provide the required rabies vaccination certificate within three days of release, the animal control officer may again impound the animal whether located on or off the owner's or keeper's real property.

(6) If an animal impounded pursuant to this section is not reclaimed by its owner during the impoundment period, the animal shall be disposed of in one of the following manners:

(a) Adopted as a pet by a new owner; or

(b) Put to death by a procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or of the American Humane Association.

(7) The animal shall be impounded for a period of not less than 72 hours prior to disposal. (Ord. 25, passed 9-14-1989) Penalty, see § 92.99

§ 92.36 BITES.

(A) (1) When a person has been bitten by an animal, that person or the parent, guardian or person standing in loco parentis of that person, and the person owning the animal or in control or possession of the animal shall notify the Health Director immediately and give the name and address of the person bitten and the owner of the animal.

(2) Every physician treating a dog or cat bite wound shall also report the incident to the Health Director immediately.

(3) The person who has been bitten, or if a minor, the person's guardian, and the person owning the animal or in control or possession of the animal may contact 911 if emergency attention is necessary.

(B) (1) Every dog or cat that bites a human being and does not have a valid rabies vaccination tag shall be delivered within eight hours of the bite incident by the owner or keeper to the County Animal Shelter or to a licensed veterinary hospital, at the choice of the owner, where the animal shall be confined for observation for not less than ten days. The owner shall be responsible for the cost of the confinement.

(2) An animal control officer may, in his or her sole discretion, permit the animal to be confined on the premises of the owner only when, after personal inspection by the officer, he or she determines that there is a suitable secure enclosure on the premises and that other circumstances warrant such action.

(3) If the owner or the person who controls or possesses a dog or cat that has bitten a person refuses to confine the animal as required by this section, the Health Director may order seizure of the animal and its confinement for ten days at the expense of the owner.

(C) (1) A dog or cat bitten by a proven rabid animal, or animal suspected of having rabies that is not available for laboratory diagnosis, shall be destroyed immediately by its owner or an animal control officer, except that any dog or cat which is immunized under the laws of the state at the time of the bite shall be inoculated with a booster vaccine within three days of the bite.

(2) If such a dog or cat develops rabies as determined by a licensed veterinarian, it shall be the duty of the owner to have the animal destroyed and properly disposed of according to the provisions of G.S. § 130A-199, which requires that rabid animals be destroyed and their head sent to the State Laboratory of Public Health for rabies diagnosis.
(Ord. 25, passed 9-14-1989) Penalty, see § 92.99

§ 92.37 TRANSFERRED ANIMALS.

(A) All dogs and cats shipped or otherwise brought into the county, except for exhibition purposes where the dogs or cats are confined and not permitted to run at large, shall be securely confined and vaccinated within one week after entry, and shall remain confined for two additional weeks after vaccination.

(B) This section shall not apply to those dogs and cats accompanied by a valid rabies certificate issued by a licensed veterinarian showing that the dog or cat has a current rabies expiration date on the certificate.
(Ord. 25, passed 9-14-1989) Penalty, see § 92.99

SEIZURE AND IMPOUNDMENT OF ANIMALS

§ 92.50 POWER OF SEIZURE AND IMPOUNDMENT.

(A) Animal control officers are hereby authorized to seize and impound the following:

(1) Any female dog or cat unconfined in violation of § 92.20 of this chapter;

(2) Any dangerous dog outside of a secure enclosure in violation of § 92.22 of this chapter;

(3) Any dog or cat, without identifiable owner, creating a public nuisance in violation of § 92.23 of this chapter;

(4) Any animal which has been found to be a victim of cruel treatment under the provisions of § 92.24 of this chapter;

(5) Any wild or exotic animals determined to be in violation of the provisions of § 92.25 of this chapter;

(6) Any dog not wearing the rabies vaccination tag required by § 92.35 of this chapter, or any dog or cat whose owner refuses to confine the animal after it has bitten a human being pursuant to § 92.36(B) of this chapter, or any dog or cat which otherwise appears in violation of the rabies control provisions of this chapter;

(7) Any animal which appears to be lost, stray or unwanted; and/or

(8) Any dog that approaches a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack; provided, however, that this division shall not apply to a dog being used by a law enforcement officer to carry out the law enforcement officer's duties.

(B) Animal control officers shall not be required, in the process of seizing or impounding animals, to place themselves in a situation which may jeopardize their own health and safety, nor shall animal control officers be required to pick up dead animals.
(Ord. 25, passed 9-14-1989)

§ 92.51 NOTIFICATION TO OWNERS.

Impoundment shall be according to the following procedure unless otherwise required by this subchapter:

(A) Upon impoundment the animal control officer shall make a reasonably diligent attempt to determine the ownership of the impounded animal, if not already known, and to notify the owners of the impoundment and the procedure for redemption.

(B) Notification shall be made by personal contact or telephone where possible, otherwise by U.S. mail.
(Ord. 25, passed 9-14-1989)

§ 92.52 IMPOUNDMENT TIME PERIODS; REDEMPTION.

(A) The owner or keeper of an animal impounded pursuant to this subchapter may redeem the animal and regain possession thereof within 72 hours after impoundment, or longer where deemed appropriate by the Chief Animal Control Officer, provided that there is reasonable assurance that all applicable provisions of this chapter will be complied with and provided that all applicable fees have been paid.

(B) Redemption service fees shall be charged each time an animal is redeemed, in addition to a daily boarding fee.

(C) (1) The redemption and boarding fee schedule is:

Redemption	*Cost*	*Board Per Day*
First	$15	$5
Second	$50	$5
Third	$75	$5
Fourth	$100	$5
Fifth (and subsequent)	$150	$5

(2) The 72-hour holding period shall not apply to animals surrendered by an owner or keeper to the Health Department or Animal Shelter for immediate adoption or destruction.

(D) (1) If an impounded animal is not redeemed by the owner or keeper within the prescribed period, it shall become the property of the Animal Shelter and offered for adoption to a responsible adult who is willing to comply with this chapter, or it may be destroyed in a humane manner.

(2) Animals will be euthanized by carbon monoxide gassing or injection with a humane solution, as approved by the North Carolina Department of Human Resources.

(E) In appropriate cases where an animal is badly wounded or diseased, the Chief Animal Control Officer may reduce the 72-hour holding period and destroy the animal immediately or at the time as he or she deems appropriate.
(Ord. 25, passed 9-14-1989)

§ 92.53 DISPOSAL.

After euthanasia, the animal may be sold to a duly licensed biological supply company or veterinary researcher, at the discretion of the Chief Animal Control Officer, but only upon the prior receipt of the following information from those requesting to purchase animals:

(A) Copy of U.S.D.A. license;

(B) List of all facilities to which purchaser sells or purchases from;

(C) Description or photographs of purchaser's animal transportation vehicles and description of the routes by which he or she will transport the animals;

(D) Any other information or documentation which might in the discretion of the Health Director be required; and

(E) Payment for each dog or cat purchased from the Animal Shelter, payable at or prior to the time of receipt of the animals.
(Ord. 25, passed 9-14-1989)

§ 92.99 PENALTY.

(A) *Misdemeanor.*

(1) Violations of the provisions of this chapter or failure to comply with any of its requirements shall constitute a Class 3 misdemeanor, punishable by a fine of up to $200 and/or a maximum of 20 days in prison, as provided by applicable law.

(2) Each day's continuing violation shall constitute a separate and distinct offense.

(B) *Equitable remedies.* This chapter may be enforced by an appropriate equitable remedy, injunction or order issuing from a court of competent jurisdiction pursuant to G.S. § 153A-123.

(C) *Civil penalties.* The following civil penalties may be issued for failure to confine and control and control dangerous dogs:

(1) (a) If any dangerous dog shall, when unprovoked, attack, assault, wound, bite or otherwise injure a human being, the owner or keeper shall pay a $500 civil penalty; and, after a ten day waiting period exclusive of Sundays and holidays, the animal shall be destroyed by animal control officers.

(b) For each subsequent violation the owner or keeper shall pay a $1,500 civil penalty for owning or keeping a dangerous dog which, when unprovoked, attacks, assaults, wounds, bites or otherwise injures a human being.

(2) The owner of keeper of any dangerous dog found to be in violation of § 92.22 shall for the first violation be assessed a civil penalty of $100; for a second violation the animal will be picked up and destroyed.

(3) (a) If any dangerous dog shall, when unprovoked, kill, wound, worry or assist in killing or wounding any domestic animal, the owner of keeper of the dog shall pay a $250 civil penalty and the Animal Control Department may impound and destroy the dog after the expiration of a ten day waiting period exclusive of Sundays and holidays.

(b) For any subsequent like violation, the owner or keeper of the animal shall pay a civil penalty of $500.

(D) *Strict liability.* The owner of a dangerous dog shall be strictly liable in civil damages for any injuries or property damage the dog inflicts upon a person, his or her property, or another animal. (Ord. 25, passed 9-14-1989)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. PRIVILEGE LICENSE TAXES

111. VEHICLES FOR HIRE

112. CABLE TELEVISION SYSTEM

113. LEASE OR RENTAL OF VEHICLES

114. SOLICITATIONS

CHAPTER 110: PRIVILEGE LICENSE TAXES

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GENERAL PROVISIONS

§ 110.01 DEFINITIONS.

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

BUSINESS. Each trade, occupation, profession, business, and franchise taxed under this chapter.

PERSON. Any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.

SEASONAL BUSINESS. A business conducted for profit six months out of the year or less. (Ord. 20, passed 4-9-1992)

§ 110.02 CONSTRUCTION.

(A) This chapter is enacted for revenue purposes only.

(B) Therefore, it should be construed to require payment of the maximum tax permitted under its terms.

(C) In addition, issuance of a license in accordance with this chapter does not excuse a licensee from compliance with any other applicable ordinance or statute.

(D) This chapter does not prevent the town from imposing license taxes on additional businesses, from increasing or decreasing the amount of any license tax, or from regulating any business taxed. (Ord. 20, passed 4-9-1992)

§ 110.03 EFFECTIVE DATE.

The effective date of this chapter is July 1, 1992.
(Ord. 20 passed 4-9-1992)

§ 110.04 FEE SCHEDULE.

The license fee schedule, as adopted by the Town Council and on file in the office of the City Clerk, is hereby adopted by reference as if set out at length herein.
(Ord. 47, passed 6-8-2004; Am. Ord. 48, passed 7-13-2004)

LEVY OF TAX

§ 110.15 GENERAL.

(A) An annual privilege license tax is hereby levied on each business conducted within this town listed in § 110.65 of this chapter in the amounts set forth therein.

(B) (1) Each person who conducts a business within this town is subject to this chapter.

(2) A person conducts business when he or she engages in one act of business taxed under this chapter.

(3) He or she conducts the business within the town if he or she maintains a business location within the town; or if, either personally or through agents, he or she:

(a) Solicits business within the town limits; or

(b) Picks up or delivers goods or services within the town limits.
(Ord. 20, passed 4-9-1992)

§ 110.16 PERIOD OF LICENSE; DUE DATE.

(A) *Annual licenses.*

(1) Unless the section of this chapter levying the privilege license tax applicable to a particular business provides otherwise, a license issued in accordance with this chapter is good for the 12-month period beginning July 1 and ending June 30.

(2) The tax is due on July 1 of the year.

(3) However, if a person begins a business after July 1 of a year, the tax for that year is due before the business is begun.

(B) *Licenses for periods shorter than one year.*

(1) If the section of this chapter levying the privilege license tax applicable to a particular business so provides, a license may be issued for a period of one day, one week, or some comparable period of less than a full license year.

(2) A person may not commence a business conducted within the town and taxed under such provision until the privilege license tax due is paid and may not continue such a business beyond the period for which the license is issued.
(Ord. 20, passed 4-9-1992)

§ 110.17 PRORATION.

(A) If a business is begun after January 31 and before July 1, the amount of tax due is half the amount otherwise due.

(B) If a business is seasonal in nature and if the amount of tax is not based on gross receipts, the amount of tax due is half the amount otherwise due.
(Ord. 20, passed 4-9-1992)

§ 110.18 REFUNDS.

If for any reason a licensee discontinues his or her business during the license year, he or she is not entitled to a refund.
(Ord. 20, passed 4-9-1992)

§ 110.19 SEPARATE BUSINESSES.

(A) A separate license is required and a separate privilege license tax must be paid for each place of business unless two or more places of business under common ownership are contiguous to each other, communicate directly with and open into each other and are operated as a unit.

(B) In addition a separate privilege license tax must be paid for each business taxable under this chapter conducted by the taxpayer at any one location; however, the Tax Collector may issue a single license for all taxable business conducted at one location by a single taxpayer.
(Ord. 20, passed 4-9-1992)

§ 110.20 COMPUTATION BASED ON GROSS RECEIPTS.

(A) Whenever this chapter levies a privilege license tax computed on the basis of gross receipts, gross receipts means the amount reported as gross receipt 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.

(B) (1) If a business has not been in operation long enough for the information required in division (A) of this section to be available, the Tax Collector shall estimate gross receipts for the business on the basis of gross receipts of comparable businesses, or any other information that the Tax Collector considers useful.

(2) On or before the July 31 immediately after the license year, each licensee who paid the tax for the past license year based on estimated gross receipts shall submit to the Tax Collector a sworn final report showing the amount of gross receipts for the license year.

(3) If the amount shown is more than estimate gross receipts, the licensee shall pay the amount of additional tax that would have been due, had the estimate been accurate.

(4) If the amount shown is less than estimated gross receipts, the town shall refund, to the licensee, the difference between the actual tax paid and the amount of tax that would have been due, had the estimate been accurate.
(Ord. 20, passed 4-9-1992)

§ 110.21 EXEMPTIONS.

(A) *Generally.* Except as otherwise provided in this section or by state law, no person is exempt from the payment of a privilege license tax levied by this chapter.

(B) *Charitable organizations.* A person who operates a business for a religious, educational, civic, patriotic, charitable, fraternal purpose, when the entire gross income of the business is used for such a purpose, is exempt from paying any privilege license tax levied by this chapter.

(C) *Blind persons and members of the Armed Forces and Merchant Marines.* Blind persons and persons who serve in the United States Armed Forces or the Merchant Marines are exempt from paying any privilege license tax levied by this chapter to the extent provided by G.S.§ 105-249.2.

(D) *Must obtain license.* A person exempt from paying a privilege license tax levied by this chapter shall nevertheless obtain a license from the Tax Collector. The license shall state that the licensee is exempt from paying the privilege license tax.
(Ord. 20, passed 4-9-1992)

LICENSES; ADMINISTRATION

§ 110.35 APPLICATION.

(A) A person shall apply to the Tax Collector for each license required by this chapter no less than 30 days before the date the tax is due.

(B) The application, which shall be submitted on forms provided by the Tax Collector, shall contain:

(1) The name of the applicant and whether the applicant is an individual, a partnership, a corporation, or some other entity;

(2) The nature of the business;

(3) Where the business is conducted;

(4) An address where notices and statements may be mailed as required by this chapter;

(5) Whether the business is regulated by a state occupational licensing board subject to G.S. Chapter 93B, and if so, the serial number of the state license the applicant currently holds; and

(6) Any other information the Tax Collector determines to be necessary to compute the amount of tax due.
(Ord. 20, passed 4-9-1992)

§ 110.36 REASONS FOR REFUSAL OR REVOCATION.

(A) The Tax Collector shall refuse to issue a license or shall revoke a license for either of the following reasons:

(1) The applicant misrepresents a fact relevant to the amount of tax due or his or her qualifications for a license; or

(2) The applicant refuses to provide information necessary to compute the amount of tax due.

(B) (1) The Tax Collector shall revoke a license if a reason exists to revoke it as set forth in division (A) of this section.

(2) Before revoking a license, the Tax Collector shall give the licensee written notice of the grounds for revocation, in accordance with § 110.45 of this chapter.

(3) The licensee may within ten days after the day on which notice is served request a conference with the Tax Collector in writing.

(4) The request shall specify the reasons why the license should not be revoked.

(5) The Tax Collector shall arrange the conference within a reasonable time.

(6) If the licensee fails to request a conference within ten days after the day on which notice is served, the Tax Collector shall revoke the license.

(7) If the licensee requests a conference, the Tax Collector may not revoke the license until after the conference.

(8) If the Tax Collector revokes a license, the former licensee may apply for a new license at any time thereafter.

(9) If the reason for which the license was revoked no longer exists and if no other reason exists for refusing to issue a license, the Tax Collector shall issue the license in accordance with § 110.38 of this chapter.
(Ord. 20, passed 4-9-1992)

§ 110.37 UNQUALIFIED APPLICANTS; RIGHT TO CONFERENCE.

(A) After receipt of the completed application, if the Tax Collector believes that a reason exists for refusing a license under § 110.36(A) of this chapter, the Tax Collector shall refuse to accept payment of the tax and shall not issue the license.

(B) (1) At the applicant's request, the Tax Collector shall, in accordance with § 110.45 of this chapter, give the applicant a written statement of the reason for refusing the license.

(2) The applicant may, within ten days after the day the statement is received, request a conference to discuss the refusal.

(3) In the request the applicant shall specify why the application for a license should not be refused.

(4) The Tax Collector shall arrange the conference within a reasonable time.

(C) If the Collector refuses to issue a license, the applicant may reapply for a license at any time thereafter.

(D) If the reason for which the application was refused no longer exists, and if no other reason exists for refusing to issue a license, the Tax Collector shall issue the license in compliance with § 110.38 of this chapter.
(Ord. 20, passed 4-9-1992)

§ 110.38 TAX COLLECTOR TO ISSUE.

(A) After receipt of the completed application, if the Tax Collector believes that no reason exists for refusal of a license under § 110.36(A) of this chapter, the Tax Collector shall determine the amount of tax due and notify the applicant of that amount.

(B) The Tax Collector shall not issue a license until the tax is paid.
(Ord. 20, passed 4-9-1992)

§ 110.39 AMOUNT DISPUTED.

(A) If disputes arise over the amount the Tax Collector determines to be due, the applicant may either refuse to pay and request a conference with the Tax Collector to discuss the determination or pay the amount and request a conference to discuss the right to a refund.

(B) If a conference is requested, the Tax Collector shall arrange it within a reasonable time.
(Ord. 20, passed 4-9-1992)

§ 110.40 FORM AND CONTENTS.

(A) A license shall show the name of the person licensed, the place where the business is conducted, if it is to be conducted at one place, the nature of the business licensed, the period for which the license is issued, and the amount of tax paid.

(B) In addition, if a machine is licensed, the license shall show the serial number of the machine.

(C) The Tax Collector shall keep a copy of each license issued.
(Ord. 20, passed 4-9-1992)

§ 110.41 ASSIGNMENTS.

(A) A license may be assigned if:

(1) A business licensed under this chapter and carried on at a fixed place is sold as a unit to any person; and

(2) The purchaser is to carry on the same business at the same place.

(B) (1) Such a change shall be reported to the Tax Collector in accordance with § 110.42 of this chapter.

(2) Otherwise, each license issued under this chapter is a personal privilege and is not assignable.
(Ord. 20, passed 4-9-1992)

§ 110.42 CHANGES IN BUSINESS.

(A) A licensee or an assignee shall report a change in the information contained in the license application to the Tax Collector within ten days after the change occurs. If information shown on the license itself is affected, the licensee or assignee shall surrender the license to the Tax Collector when reporting the change.

(B) If there are no reasons for revoking the license under § 110.36(A) of this chapter and the change results in the imposition of a separate or additional tax, the Tax Collector shall reissue a license reflecting the change upon payment of the separate or additional tax.

(C) If there are no reasons for revoking the license under § 110.36(A) of this chapter and the change does not result in an imposition of a separate or additional tax, the Tax Collector shall reissue a license reflecting the change upon payment of a fee of $2.

(D) If there is reason for revoking the license under § 110.36(A) of this chapter, the Tax Collector shall refuse to reissue a license and shall instead begin proceedings to revoke the license in accordance with § 110.36(B) of this chapter.
(Ord. 20, passed 4-9-1992)

§ 110.43 DUPLICATE LICENSES.

Upon satisfactory proof that a license has been lost or destroyed, the Tax Collector shall furnish a duplicate for a fee of $2.
(Ord. 20, passed 4-9-1992)

§ 110.44 RECORD OF CONFERENCES.

(A) The Tax Collector shall maintain for three years a record of each conference held in accordance with this chapter.

(B) The record shall contain the applicant's or licensee's name, the date of the conference, and a brief statement of the issues discussed and the result reached.

(C) After three years, the Tax Collector shall dispose of the record in accordance with G.S. § 121-5.
(Ord. 20, passed 4-9-1992)

§ 110.45 NOTICE.

Whenever this chapter requires the Tax Collector to give a written statement or notice to an applicant or a licensee, the Tax Collector may do so in one of three ways:

(A) By personally delivering the statement or notice to the applicant or licensee;

(B) By mailing the statement or notice by registered or certified mail and returning the receipt requested to the address specified for that purpose in the license application; or

(C) By causing the statement or notice to be served on the applicant or licensee in accordance with the procedures for service of process under Rule 4, North Carolina Rules of Civil Procedure.
(Ord. 20, passed 4-9-1992)

ENFORCEMENT AND COLLECTION

§ 110.55 DUTY TO DETERMINE WHETHER TAX DUE.

Each person has the duty to determine whether the business he or she conducts is taxed under this chapter and if so, whether that tax has been paid for the current tax year.
(Ord. 20, passed 4-9-1992)

§ 110.56 TAX COLLECTOR TO INVESTIGATE.

If the Tax Collector has reason to believe that a person is conducting a business in the town in violation of this chapter, the Tax Collector shall conduct an investigation to determine the person's tax liability.
(Ord. 20, passed 4-9-1992)

§ 110.57 DUTY TO KEEP BOOKS.

(A) Each person who conducts a business taxed under this chapter shall keep all records and books necessary to compute the tax liability.

(B) If a person fails to keep books and records as required, the Tax Collector shall make a determination of that person's tax liability from the information available.
(Ord. 20, passed 4-9-1992) Penalty, see § 110.99

§ 110.58 DUTY TO PERMIT INSPECTION.

Each person who conducts business in the town shall permit the Tax Collector to inspect the business premises during normal business hours to determine the nature of the business conducted there and to examine the books and records to determine the nature and amount of business transacted.
(Ord. 20, passed 4-9-1992) Penalty, see § 110.99

§ 110.59 DUTY TO POST LICENSE.

(A) A licensee shall post the license or licenses conspicuously in the place of business licensed.

(B) If the licensee has no regular place of business, the license must be kept where it may be inspected at all times by the proper town officials.

(C) If a machine is licensed, the license shall be affixed to the machine.
(Ord. 20, passed 4-9-1992) Penalty, see § 110.99

§ 110.60 NOTICE OF DEFICIENCY.

(A) If the Tax Collector determines that a person has not paid the full amount of tax due under this chapter, either for the current license year or for a prior license year, the Tax Collector shall give the person written notice of the deficiency, in accordance with § 110.45 of this chapter.

(B) The notice of deficiency shall specify:

(1) The total amount of tax due;

(2) The section of this chapter upon which the tax is based;

(3) The amount of tax paid;

(4) Any interest due;

(5) The balance owed;

(6) The manner and time period in which the person may respond to the notice of the deficiency; and

(7) The consequences of failing to respond as specified.
(Ord. 20, passed 4-9-1992)

§ 110.61 REQUEST FOR CONFERENCE.

(A) The person may, within ten days after the day on which the notice is served, request a conference in writing. The request shall specify the person's objections to the notice of deficiency.

(B) By way of illustration but not limitation, a person who receives notice of a deficiency may object on the following grounds:

(1) The tax due has already been paid;

(2) The Tax Collector miscalculated the amount of tax due;

(3) The Tax Collector based his or her calculation on incorrect or insufficient information concerning either the nature or the amount of business conducted; or

(4) The Tax Collector based the determination on an erroneous interpretation of a section of this chapter that establishes a category of business subject to a particular tax.
(Ord. 20, passed 4-9-1992)

§ 110.62 DEFICIENCY TO BECOME FINAL.

If the taxpayer fails to request a conference under § 110.61 of this chapter, the deficiency becomes final and the Tax Collector shall proceed to collect the deficiency.
(Ord. 20, passed 4-9-1992)

§ 110.63 CONFERENCE HELD.

(A) If the taxpayer requests a conference, the Tax Collector shall not proceed to collect the deficiency until hearing the taxpayer's objections and determining that the deficiency should become final.

(B) The Tax Collector shall maintain a record of each conference held for three years in accordance with § 110.44 of this chapter.

(C) The record shall contain the name of the taxpayer, the date of the conference, a brief statement of the issues discussed, and the results of the discussion.

(D) After three years, the Tax Collector shall dispose of the record in compliance with G.S. § 121-5.
(Ord. 20, passed 4-9-1992)

§ 110.64 COLLECTION OF DEFICIENCY.

(A) The Tax Collector may use any of the following methods to collect a deficiency:

(1) Criminal prosecution in accordance with § 110.99(B) of this chapter;

(2) Equitable relief in accordance with § 110.99(C) of this chapter;

(3) The remedies of levy, sale, attachment and garnishment in accordance with G.S. § 160A-207; or

(4) The remedies of levy and sale of real and personal property of the taxpayer within the town in accordance with the provisions of G.S. § 105-109.

(B) Any person who commences or continues to conduct a business taxed under this chapter without payment of the tax is liable for the additional tax of 5% every 30 days as imposed by G.S. § 105-109. (Ord. 20, passed 4-9-1992)

§ 110.65 TABLE OF LICENSED BUSINESSES.

Type of Business	*Per Annum Tax*	*Description*	*Special Provisions*
Agents and Agencies	$50	Collection agencies, person engaging in the business of operating a collection agency, defined as collecting, for a profit, claims, accounts, bills, notes or other money obligations for others shall be taxed as stated herein	-
Amusements	$7.50	Giving, offering or managing any form of entertainment or amusement not otherwise taxed shall be taxed as stated herein	-
Antiques - Stores and Shops	$37.50	Resident dealer	-
Arcades - Video Games	$5	Owning or operating machines that play electronic video games when a coin or other thing of value is deposited in the machine shall be taxed as stated herein	Per Machine
Auctions	$50	Persons engaged in the business of selling goods other than farm products shall be taxed as stated herein	-

Type of Business	*Per Annum Tax*	*Description*	*Special Provisions*
Auto and/or Truck Rental and/or Lease	$37.50	Persons engaged in the business of renting or leasing motor vehicles, trailers, equipment, and the like shall be taxed as stated herein	Ten or Less
Auto and/or Truck Rental and/or Lease	$50	Persons engaged in the business of renting or leasing motor vehicles, trailers, equipment, and the like shall be taxed as stated herein	11 to 25
Auto and/or Truck Rental and/or Lease	$75	Persons engaged in the business of renting or leasing motor vehicles, trailers, equipment, and the like shall be taxed as stated herein	26 and Up
Automobile Dealers - Auto Repair Shops - Auto Supplies	$12.50	Every person engaged in the business of servicing, storing, painting, repairing, welding or upholstering motor vehicles, trailers, and the like shall be taxed as stated herein	-
Automobile Dealers - Auto Repair Shops - Auto Supplies	$25	Persons engaged in the business of buying, selling, distributing, exchanging or delivering automotive accessories shall be taxed as stated herein	-
Automobile Dealers - Auto Repair Shops - Auto Supplies	$37.50	Persons engaged in the business of buying, selling distributing, storing or exchanging motor vehicles shall be taxed as stated herein	-
Bankrupt or Fire Sales	$225	-	-
Barber Shops and Beauty Salons	$2.50	Each person engaged in the business of operating a barber shop, beauty shop, or other shop of like kind, each person employed in the shop shall be taxed as stated herein	Per Operator
Beer and Wine	$5	Every person holding any of the following retail ABC permits for any establishment located in the town, the annual tax shall be as stated herein	Off Premises Malt Beverage

Type of Business	*Per Annum Tax*	*Description*	*Special Provisions*
Beer and Wine	$5	Every person holding any of the following retail ABC permits for any establishment located in the town, the annual tax shall be as stated herein	Off Premises Wine
Beer and Wine	$62.50	Every person holding any of the following retail ABC permits for any establishment located in the town, the annual tax shall be as stated herein	Wholesale Beer
Bicycles	$10	Each dealer or agent selling, renting or repairing shall be taxed as stated herein	-
Bowling Alleys	$10	-	Per Lane
Building Contractors	$50	Each person, firm or corporation who, for a fixed price, commission, fee, or bids to construct any building, highway, street, sidewalk, bridge, culvert, excavation, grading or other improvement or structure, or any part thereof shall be taxed as stated herein	Up to $100,000
Building Contractors	$75	Each person, firm or corporation who, for a fixed price, commission, fee, or bids to construct any building, highway, street, sidewalk, bridge, culvert, excavation, grading or other improvement or structure, or any part thereof shall be taxed as stated herein	Over $100,000 to $500,000
Building Contractors	$100	Each person, firm or corporation who, for a fixed price, commission, fee, or bids to construct any building, highway, street, sidewalk, bridge, culvert, excavation, grading or other improvement or structure, or any part thereof shall be taxed as stated herein	Over $500,000
Building Contractors	$10	Each person, firm or corporation who, for a fixed price, commission, fee, or bids to construct any building, highway, street, sidewalk, bridge, culvert, excavation, grading or other improvement or structure, or any part thereof shall be taxed as stated herein	If State Licensed

Type of Business	*Per Annum Tax*	*Description*	*Special Provisions*
Carpet Cleaners	$37.50	-	-
Catering	$37.50	-	Per Truck
Chain Store	$50	Every person, firm or corporation engaged in the business of operating or maintaining in the town under the same general management, supervision, or ownership, two or more stores or mercantile establishments where goods, wares and merchandise are sold or offered for sale, or for which such goods are sold and distributed at wholesale or retail, or who or which controls by lease, either as lessor or lessee, or by contract, operated or the kinds, character, or brands or merchandise which are sold shall be deemed a branch or chain store operators and shall be taxed as stated herein	-
Child Care	$10	Every person, firm or corporation engaged in the business of operating a day care facility shall be taxed as stated herein	30 Children or Less
Child Care	$60	Every person, firm or corporation engaged in the business of operating a day care facility shall be taxed as stated herein	31 Children or More
Christmas Tree Dealer	$25	Every person engaged in the business of buying and selling Christmas trees shall be taxed as stated herein	-
Collection Agencies	-	See Agents and Agencies	-
Contractors - Plumbers, Heating, Electricians	$12.50	Each person, firm or corporation engaged in the business of plumbing, installing hot-air heating systems or installing electrical equipment or offering to perform such services, shall be taxed as stated herein	-
Curb Market	$18.75	Any person engaged in the business of buying and selling goods shall be taxed as stated herein	-

Type of Business	*Per Annum Tax*	*Description*	*Special Provisions*
Decorators - Interior	$10	Every person engaged in the business of interior decorating shall be taxed as stated herein	-
Dog and Cat Breeders	$7.50	Any person engaged in the business of breeding for the purpose of selling shall be taxed as stated herein	-
Dry Cleaning	$25	Every person engaged in the business of operating a dry cleaning plant shall be taxed as stated herein	-
Engravers	$37.50	-	-
Exhibitions	$15	-	-
Florist	$12.50	Any person engaged in the business of selling, growing flowers, bulbs, plants and shrubs for sale shall be taxed as stated herein	-
Games	$20	(Non-video) Games operated for sports or play and operated for profit, and not herein specifically licensed shall be taxed as stated herein	-
Gasoline - Service Station	$2.50	Any person engaged in the business of servicing, storing gasoline for the purpose of selling shall be taxed as stated herein	Per Pump
Golf	$25	Sports game operated for profit	-
Hotels, Motels	$1	Every person engaged in the business of operating any hotel or motel in the town shall be taxed as stated herein	Per Room
House Moving and Wrecking	$37.50	-	-
Ice Cream	$2.50	Any person engaged in the business of manufacturing or distributing ice creams shall be taxed as stated herein	Retail
Ice Cream	$15	Any person engaged in the business of manufacturing or distributing ice creams shall be taxed as stated herein	Peddlers

Type of Business	*Per Annum Tax*	*Description*	*Special Provisions*
Itinerant Merchants, Peddlers, Flea Market Operators, Flea Market Vendors	$12.50	Flea market vendors is a merchant who takes his or her goods to a flea market who offers his or her goods for sale and renting a space shall be taxed as stated herein	-
Itinerant Merchants, Peddlers, Flea Market Operators, Flea Market Vendors	$100	Flea market operators is a person who rents space other than a retail store who uses the space to sell goods at retail shall be taxed as stated herein	-
Itinerant Merchants, Peddlers, Flea Market Operators, Flea Market Vendors	$100	Any person engaged in the business of itinerant merchant defined as exposing for sale goods, or wares by a person who is not a regular merchant in the town, at a location, in a building or on the street for less than six months shall be taxed as stated herein	-
Itinerant Merchants, Peddlers, Flea Market Operators, Flea Market Vendors	$12.50	Peddlers is defined as a person engaging in the business of peddling, carrying from place to place any goods, wares or merchandise offering to sell or barter or actually selling such goods or merchandise shall be taxed as stated herein	Foot or Small Truck
Itinerant Merchants, Peddlers, Flea Market Operators, Flea Market Vendors	$25	Peddlers is defined as a person engaging in the business of peddling, carrying from place to place any goods, wares or merchandise offering to sell or barter or actually selling such goods or merchandise shall be taxed as stated herein	Large Truck
Janitorial Service	$15	Any person washing or cleaning buildings, windows, and the like shall be taxed as stated herein	-

Type of Business	*Per Annum Tax*	*Description*	*Special Provisions*
Jewelry	$25	Any person engaged in the business of making and repairing rings, watches, and the like shall be taxed as stated herein	-
Junk	$62.50	Any person engaged in the business of buying, selling, exchanging, or storing goods shall be taxed as stated herein	-
Landscaping	$50	Any person engaged in the business of selling, buying and planting of shrubbery, caring for lawns, and the like shall be taxed as stated herein	-
Laundries, Laundrettes	$25	-	-
Lawns	$50	Any person engaged in the business of buying, and selling lawn equipment, making repairs shall be taxed as stated herein	-
Loan Companies	$100	Any person lending money on personal securities, such as household, watches, jewelry, homes and automobiles, and the like shall be taxed as stated herein	-
Locksmith	$30	-	-
Machine Shops	$15	-	-
Manufacturer	$200	Each person engaged in the business of manufacturing or milling, shall be taxed as stated herein	Up to $300,000
Manufacturer	$400	Each person engaged in the business of manufacturing or milling, shall be taxed as stated herein	Over $400,000
Manufacturer	$150	Each person engaged in the business of manufacturing or milling, shall be taxed as stated herein	Up to $200,000
Manufacturer	$100	Each person engaged in the business of manufacturing or milling, shall be taxed as stated herein	Up to $100,000
Manufacturer	$37.50	Each person engaged in the business of manufacturing or milling, shall be taxed as stated herein	Up to $25,000

Type of Business	*Per Annum Tax*	*Description*	*Special Provisions*
Manufacturer	$300	Each person engaged in the business of manufacturing or milling, shall be taxed as stated herein	Up to $400,000
Manufacturer	$50	Each person engaged in the business of manufacturing or milling, shall be taxed as stated herein	Up to $50,000
Masonry Contractor	$12.50	-	-
Motorcycle Dealers or Service	$10	-	-
Oil Companies	$25	Each person firm, or corporation engaged in the business of selling oil, greases. or benzine, naphtha, gasoline, or other products of like kind shall be taxed as stated herein	-
Outdoor Advertising	$7.50	Each person engaging in the business of outdoor advertising by placing, erecting or maintaining one or more outdoor advertising signs or structures of any nature by means of signboards, advertising devices shall be taxed as stated herein	-
Painting Contractors, Paper Hangers, Plastering	$12.50	-	-
Pawnbrokers	$50	Any person, firm or corporation engaged in the business and conducting the business of lending or advancing money or other things of value for a profit, and taking as a pledge for such loan specific articles of personal property, to be forfeited if payment is not made within a definite time shall be taxed as stated herein	-
Pool Tables	$10	-	Per Table

Type of Business	*Per Annum Tax*	*Description*	*Special Provisions*
Printing Establishments	$25	Any person engaged in the business of operating a printing house or establishment including engraving and lithography and the sale of office supplies and equipment shall be taxed as stated herein	-
Repair/Fix-It Shop	$25	Any person engaged in the business of operating a repair shop shall be taxed as stated herein	-
Restaurant	$0.50	Any person, firm or corporation engaged in the business of operating a restaurant, café, cafeteria with preparation of food and dining services shall be taxed as stated herein	Per Seat
Retail Merchants	$10	Each person engaged in a retail business shall be taxed as stated herein	Plus $ .40 per $1,000 Sales Over $5,000
Roofing Contractors	$12.50	-	-
Salvage	$100	-	-
Service Companies	$25	Persons engaged in performing services where no goods, wares or merchandise are sold shall be taxed as stated herein	-
Shop, Novelties	$37.50	-	-
Sign Hangers	$100	-	-
Skating Rinks	$10	-	-
Sprinkling System	$20	Selling or repairing	-
Tanning Beds	$15	-	-
Taxicabs/Limo Service	$15	-	-

Type of Business	*Per Annum Tax*	*Description*	*Special Provisions*
Travel Agency	$37.50	-	-
Video	$25	Video movies that are sold, leased, furnished or distributed	-
Warehouse Storage	$75	-	Per Structure
Welders	$37.50	-	-
Wholesale Merchants	$10	Each person engaged in the wholesale business shall be taxed as stated herein	Plus $ .40 Per $1,000 Sales Over $5,000
Wrecker Service	$15	-	Per Unit

(Ord. 20, passed 4-9-1992)

§ 110.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Conducting business within this town without having paid the privilege license tax imposed by this chapter, or without a valid license issued in accordance with this chapter, or without posting a license in compliance with § 110.59 of this chapter is a misdemeanor, punishable as provided in G.S. § 105-109. Each day that a person conducts business in violation of this chapter is a separate offense. Payment of a fine imposed in criminal proceedings in accordance with this section does not relieve a person of the liability for taxes imposed under this chapter.

(C) In addition to the criminal remedies set forth in division (B) of this section and in compliance with G.S. § 160A-175(d), the town may seek an injunction against any person who conducts a business in violation of this chapter.
(Ord. 20, passed 4-9-1992)

CHAPTER 111: VEHICLES FOR HIRE

Section

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GENERAL PROVISIONS

§ 111.01 DEFINITIONS.

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

CERTIFICATE. The certificate of public convenience and necessity granted by the Town Council to engage in the taxicab business, as provided in this chapter.

DRIVER. Any person in charge of or operating a taxicab.

OWNER. Any person having control of the operation or maintenance and collection of the revenue of taxicabs.

TAXICAB. Any motor vehicle seating nine or fewer passengers operated upon any street or highway on call or on demand, accepting or soliciting passengers indiscriminately for hire between such points along streets or highways as may be directed by the passenger or passengers so being transported and shall not include motor vehicles or motor vehicle carriers as defined in G.S. §§ 62-259 through 62-281.

TOWN GOVERNING BODY. The Town Council of the Town of Indian Trail, North Carolina.

WITHIN THE LIMITS OF THE TOWN. All of the territory within the corporate limits of the town and within five miles of the corporate limits thereof at any point where a taxicab is operating between the corporate limits to points within a radius of five miles of the town.
(Ord. passed 3-9-1999)

§ 111.02 RATES FOR SERVICES RENDERED.

Rates for services rendered by taxicabs licensed to do business within the town shall be as set out in separate rate schedules to be adopted from time to time by the Town Council.
(Ord. passed 3-9-1999)

§ 111.03 COMPLIANCE.

It shall be unlawful for any person to engage in the business of operating a taxicab within the limits of the town to drive a taxicab within the limits of the town unless the person has complied with the provisions of this chapter.
(Ord. passed 3-9-1999) Penalty, see § 10.99

REQUIREMENTS FOR OPERATION

§ 111.15 BOND OR INSURANCE.

(A) Every taxicab owner operating in the town shall file with the Town Council and keep in effect at all times a policy or policies of insurance with some company duly permitted by the Insurance Commissioner of the state to do business in the state, or provide a surety bond approved by the Town Council, with solvent surety, in the total amount or the penal sum specified herein, conditioned on the owner responding in damages for any liability incurred on account of any injury to persons or damage to property resulting from the operation of any taxicab operated by him or her in the amounts as required by G.S. § 20-281.

(B) The insurance or bond shall secure payment in accordance with the provisions thereof to any person, except employees of the owner, for personal injuries to the persons and for any damage to property, except property owned by, rented to, leased to, or transported by the owner, other than baggage of passengers, caused by the operation of the taxicab for the following amounts:

(1) In respect to injuries, to the extent of $500,000 for the injury or death of any one person and subject to that limit for each person, $1,000,000 for each accident; and

(2) In respect to damage to property, $50,000 for each accident.

(C) In the event that a judgment is rendered against any such owner in any court of competent jurisdiction by reason of any accident for which the insurance policy or bond is herein provided, the owner shall, within 24 hours after the rendition of the judgment, increase the total amount of the insurance or the penal sum of the bond so that there shall be kept in effect, in the manner contemplated by law, insurance or bond upon which there has been no recovery of not less than the minimum provided herein.

(D) (1) No taxicab shall be operated within the limits of the town unless the insurance policy or bond provided for herein is on file with the Town Council and is in full force and effect, and unless a

certificate thereof identifying the vehicle by motor serial number is carried in the cab and displayed upon demand of any law enforcement officer.

(2) Every bond filed hereunder shall contain a provision and every insurance policy filed hereunder shall contain a provision or have an endorsement that no cancellation thereof shall be effective until not less than five full days of 24-hours each have elapsed from the actual receipt of notice of the proposed cancellation by the Town Council.

(3) The person to whom notice of cancellation is given as herein provided shall note thereon, in writing, the date and hour at which the notice of cancellation was received.

(4) If the taxicab owner who filed the bond or insurance policy as required by this section is still operating before the cancellation becomes effective, all taxicab operations by the owner within the limits of the town shall cease at the time the cancellation becomes effective, and the owner's certificate of public convenience and necessity and other rights under this chapter shall be automatically suspended. (Ord. passed 3-9-1999)

§ 111.16 TAXI DRIVER'S PERMIT.

(A) Before any person shall drive a taxicab within the limits of the town, he or she shall make written application to the Town Administrator for a driver's permit under this chapter, which application shall give the following information about the applicant:

(1) Age, Social Security number, driver's permit number, home address;

(2) (a) Any previous employment history as a driver or operator, in any jurisdiction; and/or

(b) Any information about previous permits or certificates of convenience and necessity held, and any revocations, suspensions, or other disciplinary actions pertaining thereto.

(3) (a) Whether he or she is in sound physical condition, including hearing and eyesight; and

(b) Whether or not he or she uses intoxicating liquors, drugs or narcotics.

(4) Whether or not he or she has ever been convicted of or has pleaded guilty or nolo contendere to the violation of any town, county, state, federal or other criminal law or traffic offense, and if so the number of times and kinds of offenses, and such other information as the Town Council may require.

(B) Applicants must be at least 18 years of age.

(C) A person is ineligible to apply for a taxicab driver's permit for one year following the date of any revocation or suspension of 60 days or more of his or her driver's permit for convictions of moving violations, and for two years following the date of conviction for driving under the influence of alcohol or drugs, or a substantially equivalent statute.

(D) The application shall be submitted along with a fee to defray the cost of investigation and processing, as set out in the town fee schedule approved by the Town Council.

(E) (1) The appropriate town official, as designated by the Town Administrator, shall be charged with the duty of investigating the information contained in the application, if he or she deems it necessary.

(2) If the applicant meets his or her approval, he or she shall order the issuance to the applicant of a permit card which shall bear a number, shall contain his or her name, home address, business address, employer, and photograph of the driver, and the driver shall have the permit with him or her at all times and displayed in a prominent place in the taxicab at all times when he or she is engaged in operating or is in charge of a taxicab within the limits of the town, and it shall be the duty of the driver to expose the permit upon the request of any person, at anytime.

(F) (1) Taxicab drivers' permits shall expire on June 30 of each year.

(2) Any person desiring to renew a driver's permit shall file a new application at least 30 days prior to the expiration date.
(Ord. passed 3-9-1999; Am. Ord. passed 10-10-2000)

§ 111.17 GROUNDS FOR REFUSAL.

The following factors shall be deemed sufficient grounds for refusing to issue a taxi driver's permit:

(A) Conviction of a felony against this state, or conviction of any offense against another state, which would have been a felony if, committed in this state;

(B) Violation of any federal or state law relating to the use, possession, or sale of alcoholic beverages or controlled substances;

(C) Violation of any federal or state law relating to prostitution;

(D) Non-citizenship in the United States; and/or

(E) Habitual violation of traffic laws or ordinances.
(Am. Ord. passed 10-10-2000)

§ 111.18 REVOCATION.

(A) The permit of any driver shall become void and shall be surrendered by him or her, upon his or her conviction, or plea of guilty or nolo contendere, in any court in this state or any other state on a charge of any offense involving moral turpitude.

(B) The Town Council shall have the authority, after the hearing as it shall prescribe, upon not less than five days' notice, to revoke the permit of any driver under this chapter for the following causes:

(1) Repeated violation of traffic and safety laws and ordinances, and other ordinances relating to the operation of taxicabs within the limits of the town, whether convicted thereof or charged therewith in any criminal court;

(2) Failure to report to the law enforcement authority any accident in which the driver is involved, however slight;

(3) Operation of a taxicab known to the driver not to be in good order and repair;

(4) Dangerous and reckless driving by the driver at any time while engaged in the operation of a taxicab within the limits of the town under such circumstances as in the opinion of the Town Council shall constitute reckless and indifferent disregard of the rules of traffic and the safety of passengers in the taxicab or of persons or property within the limits of the town;

(5) Operation of a taxicab in furtherance of criminal behavior of the passengers, including but not limited to prostitution and drug trafficking, when the driver knew or should have known the passenger was using the taxicab for criminal activity;

(6) Overcharging the rates prescribed by this chapter;

(7) Making a material, false statement in the application for a taxicab driver's permit, knowing it to be false; or

(8) Committing other violations on a repeated basis specified as follows:

(a) Transporting more than two passengers in the front seat or more than four passengers in the rear seat at the same time;

(b) Failing, refusing or neglecting to surrender any property left in a taxicab by a passenger to the owner, who is required to report the same to the law enforcement authority within 24 hours thereafter;

(c) Failing, refusing or neglecting to proceed with all reasonable dispatch by the nearest practicable route to the destination of the first person applying to him or her for transportation unless the person has granted permission to take on or wait for additional passengers;

(d) Failing, refusing or neglecting to keep the taxicab he or she is driving clean, sufficiently ventilated, and efficiently lighted at night, so as to provide ample light for passengers entering or leaving the taxicab; or

(e) Violating other provisions of this chapter.
(Ord. passed 3-9-1999)

§ 111.19 CERTIFICATE OF CONVENIENCE AND NECESSITY.

No person shall operate within the limits of the town any taxicab unless a certificate of public convenience and necessity allowing the operation of the taxicab as provided for herein shall have been issued and is in effect.
(Ord. passed 3-9-1999) Penalty, see § 10.99

§ 111.20 APPLICATION.

(A) Every person or owner desiring to operate a taxicab or taxicabs within the limits of the town shall file an application for a certificate of convenience and necessity, and shall furnish the following information:

(1) (a) If the proposed operation is to be financed wholly or partly by means of borrowed money or capital in any form furnished by any person other than the owner, the name and address of the person lending the money or furnishing the capital shall be disclosed on the application.

(b) If the owner, or a part-owner, is a corporation, limited liability company, or partnership, then the officers, managers or partners shall be named in the application, along with the names and addresses of owners of 20% or more of the stock or ownership interest, and a copy of the articles of incorporation, operating agreement, or partnership agreement, if any, shall be included with the application.

(2) Evidence of the financial ability and responsibility of the applicant;

(3) The number and kind of vehicles owned or expected to be owned, and the character and location of the depots and terminals to be used;

(4) (a) The experience of the applicant in the transportation of passengers for hire, including any previous ownership of or driving of vehicles for hire; and

(b) The applicant shall furnish any information about previous taxicab driver's permits or certificates of convenience and necessity held, and any revocations, suspensions, or other disciplinary actions pertaining thereto;

(5) Any facts upon which the applicant believes public convenience and necessity require the granting of his or her application.

(6) Any other information requested by the Town Council.

(B) (1) Application for a certificate may be filed at any time with the Town Clerk.

(2) The application shall be submitted along with a fee to defray the cost of investigation and processing, as set out in the town fee schedule approved by the Town Council.
(Ord. passed 3-9-1999)

§ 111.21 FAILURE TO BEGIN OPERATIONS.

If a certificate is granted to an applicant who subsequently fails, in accordance with the provisions of the certificate and this chapter, to begin operations within 60 days after the date of the certificate, the certificate shall become null and void.
(Ord. passed 3-9-1999)

§ 111.22 LIMITATION ON HOURS OF DRIVING.

(A) It shall be unlawful for any driver of any taxicab to continue on active taxicab duty for more than 12 hours, meal time included, during any 24-hour period.

(B) Each driver shall enter the time of commencing and ending active duty upon the records which must be made available for inspection by the town.
(Ord. passed 3-9-1999) Penalty, see § 10.99

§ 111.23 OWNER TO KEEP INFORMATION ON FILE.

(A) Every owner shall keep a description of equipment at all times on file with the Town Council, showing the make, model, passenger capacity, date of acquisition, from whom acquired, the motor

number and serial number and the state and town permit number of each taxicab for which he or she holds a certificate.

(B) No equipment shall be substituted for that described in the certificate until it has been inspected by the Law Enforcement Department and approved, and the substitution or addition of the equipment has been endorsed on the operator's certificate issued under this chapter.

(C) Every owner shall notify the town in writing of any material changes in the information provided in the application for certificate of convenience and necessity.
(Ord. passed 3-9-1999) Penalty, see § 10.99

§ 111.24 OWNER TO FILE QUARTERLY REPORTS.

Every owner holding a certificate shall report to the town, on a quarterly basis, the following information:

(A) The number of taxicabs then permitted and in actual operation on the streets;

(B) The number of filled and unfilled telephone requests for taxicab service made during average 24-hour periods; and

(C) The number and availability of qualified full-time and part-time drivers to operate existing taxicabs.
(Ord. passed 3-9-1999) Penalty, see § 10.99

VEHICLE REQUIREMENTS

§ 111.35 VEHICLE REQUIREMENTS.

Every taxicab operated within the limits of the town and for which a certificate is issued under this chapter shall comply with the following requirements:

(A) It shall be enclosed, or sedan type, with four doors, at least two seats and of not less than five-passenger capacity.

(B) It shall be at all times in good repair when in operation and shall be subject to inspection by any law enforcement officer at any time.

(C) It shall bear on the outside and on at least two sides the name of the owner in letters not less than two inches high and plainly visible at a distance of 100 feet.

(D) (1) The name and address of the operator, the license of the driver and the rates and fares in effect shall be kept posted inside of the taxicab at all times when it is in operation and shall be exhibited to any person demanding it.

(2) The rates and fares in effect shall be posted in letters not less than one-half inch high.

(E) No driver shall operate a radio in any taxicab while the same is being used to transport passengers for hire in the town; provided, that this section shall not prohibit the use in any taxicab operating under the provisions of this chapter of a radio device for the purpose of receiving instructions for the carrying of passengers directed through the radio device from the office or headquarters of the person or company under whom the taxicab is being operated.

(F) Every taxicab shall have affixed thereto and must use a taximeter which conforms substantially to the following specifications:

(1) A ***TAXIMETER*** is a mechanical instrument or device by which the charge for hire of a taxicab is mechanically calculated either for distance traveled or for waiting time or both and upon which the charge shall be indicated by means of legible figures which are electrically lighted each time the taximeter flag is thrown from non-earning to earning position.

(2) The taximeters must register upon visual counters the following items:

(a) Total miles;

(b) Paid miles;

(c) Number of units;

(d) Number of trips; and

(e) Number of extras.

(3) Each taximeter must be driver direct from the taxicab transmission, instead of merely connecting with the speedometer driving shaft, to the taximeter head itself, using a flexible shaft and a flexible housing so connected and sealed as to be non-tamperable.

(4) (a) No person shall use or permit to be used upon any taxicab a taximeter which shall be in such a condition as to be over 5% incorrect to the prejudice of any passenger.

(b) No person shall use or permit to be used or driven for hire a taxicab equipped with a taximeter the case of which is unsealed and not having its cover and gear intact.

(c) If demanded by the passenger, the driver in charge of a taxicab shall deliver to the person paying for the hiring of the same at the time of the payment a receipt therefor in legible type or writing containing the name of the owner, the town license number of the driver's town license or the taximeter number, and any items for which a charge is made, the total amount paid, and the day of payment.

(d) No person shall drive a taxicab to which is attached a taximeter that has not been duly inspected and approved.

(e) It shall be unlawful to change the size of the wheels or tires of a taxicab or the gears operating the taximeter or to change a taximeter from one taxicab to another unless the taximeter is retested and approved before using.
(Ord. passed 3-9-1999; Am. Ord. passed 10-10-2000) Penalty, see § 10.99

§ 111.36 NUMBER OF PASSENGERS.

Not more than one person shall be transported in any taxicab at one time except by the consent of the person first engaging the taxicab.
(Ord. passed 3-9-1999) Penalty, see § 10.99

§ 111.37 SUBSTITUTION OF VEHICLES.

(A) The person to whom a certificate has been issued may, by appropriate endorsement thereon by the Town Clerk, substitute another vehicle or other vehicles for the vehicle or vehicles for which the certificate was granted.

(B) In such instance, the liability insurance or bonds shall also be transferred to the substitute vehicle or vehicles, and proof of the transfer shall be filed with the Town Clerk.
(Ord. passed 3-9-1999)

§ 111.38 MUNICIPAL TAXICAB TAX.

(A) A tax of $15 per year upon each vehicle operated within the limits of the town as a taxicab is hereby levied.

(B) The proceeds of the tax may be used for any lawful purpose.
(Ord. passed 3-9-1999)

ADMINISTRATION; ENFORCEMENT

§ 111.50 HEARINGS.

(A) The Town Council shall conduct a hearing each year between November 1 and December 15 for the purpose of determining the number of taxicabs for which certificates shall be issued during the next calendar year. The hearing shall be public, after notice has been given by mail to all holders of certificates and applicants for certificates at the addresses shown on their certificate or application, and by publication of the notice in a newspaper of general circulation in the town at least once and not less than ten days prior to the hearing.

(B) A special hearing upon any application may be held at any time by order of the Town Council upon like notice.

(C) Any hearing may be continued to a fixed time or from time to time without further notice, but announcement thereof shall be made at the time and place fixed for the hearing to be continued.
(Ord. passed 3-9-1999)

§ 111.51 DETERMINATION OF NUMBER TO BE OPERATED.

(A) At the annual meeting prescribed in § 111.50 above, the Town Council shall determine the total number of taxicabs the public convenience and necessity require for the town.

(B) If the Town Council shall determine that certificates are outstanding in excess of the number of taxicabs required, it shall order the number reduced, and the reduction shall be distributed pro rata, as nearly as practicable, between the holders of certificate then outstanding.

(C) If the Town Council determines that the public convenience and necessity requires that certificates be issued for an additional number of taxicabs, the Town Council shall have the power to grant certificates reflecting the increase to one or more new applicants, to one or more existing owners, or to both, with full discretion, as the Town Council determines is required by the public safety, welfare, convenience and necessity.
(Ord. passed 3-9-1999)

§ 111.52 DETERMINATION OF CONVENIENCE AND NECESSITY.

The Town Council shall determine whether the public convenience and necessity require the operation of the taxicabs for which the application has been filed, and in determining whether the public

convenience and necessity require the franchising of the taxicabs, the Town Council shall take into consideration the following factors:

(A) The adequacy of existing taxicab service and other forms of transportation for passengers already in existence;

(B) The probable permanence of, public satisfaction with, efficiency of and quality of services offered by the applicant;

(C) The financial ability, character, and responsibility of the applicant;

(D) The number, condition, and kind of vehicles, and the character and location of the depots and terminals to be used;

(E) The experience of the applicant in the transportation of passengers for hire in automobiles, along with the history of the applicants' compliance with applicable ordinances, regulations and statutes pertaining to the transportation of passengers for hire in automobiles;

(F) The number of taxicabs now operated and the demand for increased service, if any, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved, and whether or not adequate provision has been made for off-street parking of the taxicab; and

(G) The other facts as may be deemed relevant by the Town Council.
(Ord. passed 3-9-1999)

§ 111.53 BURDEN OF PROOF.

The burden of proof shall be upon the applicant to establish the existence of public convenience and necessity for the operation of the taxicabs designated in his or her application and to establish all other facts required for granting the application.
(Ord. passed 3-9-1999)

§ 111.54 POWERS OF TOWN COUNCIL TO GRANT OR REFUSE.

(A) The Town Council shall have the authority to grant a certificate as applied for, or to grant a certificate to the applicant for a lesser number of vehicles than specified in the application, or to deny the application, in the exercise of sound discretion after a consideration of the factors prescribed herein.

(B) The Town Council may attach to the exercise of the rights granted by the certificate the terms and conditions as in their judgment the public convenience and necessity may require. If an application is denied, the applicant must file a new application in order to be considered for the next calendar year. (Ord. passed 3-9-1999)

§ 111.55 FORM OF CERTIFICATE.

(A) The form of a certificate of public convenience and necessity issued under this chapter shall be prescribed by the Town Clerk and shall contain:

(1) The name and address of the owner;

(2) The address of the location of the business;

(3) The number, kind and description of the vehicles, the operation of which is authorized by the certificate, including permit plate numbers; and

(4) The special limitations prescribed by the Town Council in granting the certificate.

(B) The certificate shall state that it is issued subject to the provisions of this chapter and all other laws and ordinances governing the operation of taxicabs within the limits of the town.
(Ord. passed 3-9-1999)

§ 111.56 RENEWAL OF CERTIFICATE.

(A) A certificate shall constitute a franchise from the town for the operation of taxicabs within the limits of the town, subject to the provisions of this chapter, as it is in effect or thereafter amended, until midnight on December 31 following the date of issue.

(B) Application for renewal shall be filed annually prior to October 1, and hearing on the application shall be held as herein provided.
(Ord. passed 3-9-1999)

§ 111.57 TRANSFER OF CERTIFICATE.

(A) A certificate is not transferable without the consent of the Town Council.

(B) Applications for a permit to transfer shall be filed in the same manner as an application for a certificate of convenience and necessity.

(C) The proceedings upon the application for a transfer shall be the same as those described for the issuance of a certificate; except, that only those factors pertaining to the question of public convenience and necessity need be proved which are specific to the qualifications of the applicant.
(Ord. passed 3-9-1999)

§ 111.58 REVOCATION GENERALLY.

The Town Council may at any time, after a public hearing, revoke any certificate issued by authority of this chapter for any one or more of the following causes:

(A) Failure to operate the taxicabs specified in the certificate, or other taxicabs substituted therefor, in such manner as to serve the public adequately and efficiently;

(B) Failure to maintain taxicabs in good order and repair;

(C) Failure to maintain insurance or bond as required by this chapter;

(D) Failure to pay the town taxes or permit fees imposed upon the taxicabs;

(E) Repeated and persistent violation by drivers of ordinances or state laws pertaining to traffic, safety, alcoholic beverages, drug trafficking, or prostitution;

(F) Operation of taxicabs in furtherance of criminal behavior of the passengers, including but not limited to prostitution and drug trafficking, when the operator knew or should have known passengers were using the taxicabs for criminal activities;

(G) Failure to report any accident as herein required, however slight; or

(H) Failure to comply with the provisions of this chapter or other ordinances or state laws relating to the operation of taxicabs.
(Ord. passed 3-9-1999)

§ 111.59 NOTICE OF REVOCATION HEARING.

(A) No certificate shall be revoked until the owner has had at least five-days' notice by personal service or registered mail of the charges or complaints against him or her, and of the time and place of the hearing.

(B) If, after the hearing, it is found that the owner has committed the offenses listed herein, the Town Council shall have the power to revoke the certificate, or to condition a revocation upon compliance with its order within any time fixed by the Town Council.
(Ord. passed 3-9-1999)

CHAPTER 112: CABLE TELEVISION SYSTEM

Section

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GENERAL PROVISIONS

§ 112.01 SHORT TITLE.

This chapter shall be known as "this chapter".
(Ord. 12, passed 11-12-1981)

§ 112.02 INTENT AND PURPOSE.

For the better protection of the public interest, health, safety, welfare and convenience, the following rules and regulations are hereby adopted setting forth the conditions, requirements and limitations under which a person may construct, have constructed, operate, and maintain a cable television system and engage in the business of providing a cable television service in the town. (Ord. 12, passed 11-12-1981)

§ 112.03 DEFINITIONS.

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

CABLE (COMMUNITY ANTENNA) TELEVISION SERVICE. The business of furnishing to the public for compensation, by means of a master antenna and cables, broadcast television programs obtained off the air, together with the other program material and advertising as may be allowed by rules and regulations of the Federal Communication Commission from time to time.

CABLE TELEVISION SYSTEM or ***CATV SYSTEM.*** A system of antennas, cables, wires, lines, towers, waveguides or other conductors, converters, equipment or facilities, designed and constructed for the purpose of producing, receiving, transmitting, amplifying and distributing, audio, video and other forms of electronic or electrical signals, located in the town. The definition shall not include any such facility that serves or will serve only subscribers in one or more multiple unit dwellings under common ownership, control or management, or does not use town rights-of-way.

CATV. Cable (community antenna) television.

FRANCHISE. Any authorization granted hereunder in terms of a franchise, privilege, permit, license or otherwise to construct, or have constructed, operate and maintain a system in the town for the purpose of providing cable television service to the citizens of the town.

GRANTEE. The person, firm or corporation to whom a franchise is granted by the Town Council under this chapter, and the lawful successor, transferee or assignee of the person.

GROSS ANNUAL RECEIPTS. Any and all compensation and other consideration in any form whatever and any contributing grant or subsidy received directly or indirectly by a grantee from subscribers or users in payment for any and all cable services in the community, including all forms of consideration, such as initial lump sum payments, before any deductions whatsoever are made.

PERSON. Any person, firm, partnership, association, corporation or organization of any kind.

PROPERTY OF GRANTEE. All property owned and installed by a grantee in the conduct of a CATV business in the town under the authority of a franchise granted pursuant to this chapter.

STREET. The surface of and the space above and below any public street, right-of-way, highway, freeway, bridge, lane, path, alley, court, sidewalk, parkway, drive, existing as such within the franchise area.

SUBSCRIBER. Any person or entity receiving for any purpose the CATV service of a grantee.

(B) (1) When not inconsistent with the context, words used in the present tense include the future tense.

(2) The word shall is always mandatory and not merely directory.
(Ord. 12, passed 11-12-1981)

GENERAL REGULATIONS; OPERATIONAL REQUIREMENTS

§ 112.15 FRANCHISE REQUIRED; APPLICATION.

(A) (1) It shall be unlawful for any person to engage in or otherwise participate in the construction, operation or maintenance of a community antenna television system in the town unless the person or the person for whom the work is being done shall have first obtained a franchise from the Town Council.

(2) It shall also be unlawful for any person to engage in the business of providing a community antenna television service in the town unless the person shall have first obtained a franchise from the Town Council.

(B) (1) A person seeking issuance of a franchise hereunder shall file a written application, in duplicate, with the Town Clerk.

(2) The application shall contain the following information:

(a) If the applicant is a partnership, the name and address of each partner;

(b) If the applicant is a corporation, the application shall also state the names and addresses of its directors, officers, parent and subsidiary companies and of stockholders owning as much as 3% of the outstanding stock, and shall include a certified copy of the articles of incorporation;

(c) A statement showing the applicant's experience in establishing a system and in providing a service;

(d) 1. A financial statement prepared by a certified public accountant, or person otherwise satisfactory to the Council, showing the applicant's financial status and its financial ability to complete the construction and installation of the proposed system and to provide the proposed service;

2. In connection therewith, information with respect to financial projections, including nature and sources of capital or equity financing, shall be submitted along with the application;

(e) A statement and description of the system proposed to be constructed, installed, maintained or operated by the applicant; the manner in which applicant proposes to construct, install maintain and operate the same; and, particularly the extent and manner in which existing or future poles or other facilities of other public utilities will be used for the system;

(f) A copy of any arrangement, agreement or contract, if existing, between the applicant and any public utility providing for the use of facilities of the public utility, such as poles, lines, cables or conduits;

(g) 1. A statement setting forth all agreements and understandings, whether written, oral or implied, existing between the applicant and any person, with respect to the ownership, control or transfer of the proposed franchise or the proposed CATV system and service;

2. If a franchise is granted to a person posing as a front or as the representative of another person and the information is not disclosed in the original application, the franchise shall be deemed void and of no force and effect whatsoever;

(h) A statement or schedule of proposed rates and charges to subscribers for installation and services; and

(i) Any additional information which the Town Council, at any time, may deem reasonably necessary to determine whether the requested franchise should be granted.

(C) (1) Upon consideration of any such application, the Town Council shall determine the applicant's qualifications to construct, operate, and maintain a CATV system and to provide a CATV service in accordance with the provisions of this chapter.

(2) If the Town Council dctermines that the applicant is not so qualified, it may refuse to grant the requested franchise.

(3) If the Town Council determines that the applicant is so qualified, it may, by ordinance, grant a franchise to the applicant, to be effective as provided in § 112.16.

(4) Provided, however, no provision of this chapter may be deemed or construed as to require the granting of a franchise when the Town Council determines that to do so would not be in the public interest.

(5) Any franchise granted shall include the following condition: "The CATV system and service herein franchised shall be used and operated solely and exclusively for the purpose expressly authorized by ordinance of the Town of Indian Trail and no other purpose whatsoever."
(Ord. 12, passed 11-12-1981) Penalty, see § 10.99

§ 112.16 ACCEPTANCE; INDEMNIFICATION; EFFECTIVE DATE.

(A) (1) Within 25 days after the Town Council has taken final action to approve the granting of a franchise, the grantee shall file a written acceptance of the conditions required for the franchise, acknowledged before a notary public, with the Town Clerk.

(2) The acceptance shall acknowledge that the grantee agrees to be bound by and to comply with the provisions of this chapter and the franchise and shall be in such form and content as to be satisfactory to and approved by the Town Council.

(B) Concurrently with the filing of the written acceptance, the grantee shall file with the Town Clerk the bond, letter of credit, and insurance policies required by § 112.35 hereof.

(C) The effective date of the franchise shall be the date the grantee files its written acceptance of the conditions required for the franchise in accordance with the provisions of division (A) above.
(Ord. 12, passed 11-12-1981; Am. Ord. passed 12-10-1981)

§ 112.17 DURATION OF FRANCHISE; TERMINATION; TRANSFER.

(A) The franchise shall be nonexclusive, shall be for a term as specified in the franchise not to exceed 20 years.

(B) (1) Except as herein provided, no transfer of control of the CATV system shall take place, whether by forced or voluntary sale, lease, mortgage, assignment, encumbrance or any other form of disposition, without prior notice to and approval by the Town Council which shall not be unreasonably refused.

(2) (a) The notice shall include full identifying particulars of the proposed transaction, and the Town Council shall either approve or disapprove said transfer by resolution, within 60 days of the receipt of the notice.

(b) The consent or approval of the Town Council to any assignment, lease, transfer, sub-lease, or mortgage of the grantee shall not constitute a waiver or release of the rights of the town in and to the streets.

(c) For the purpose of this section the term control is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

(d) A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of persons of 10% of the voting shares of any corporate grantee.

(e) In the absence of extraordinary circumstances, the Town Council will not approve any transfer or assignment of the grantee before completion of all construction of the energized cable.

(f) 1. Notwithstanding anything herein to the contrary, franchises may hypothecate or pledge its interest in this franchise for the purpose of obtaining financing, provided the proceeds of which shall be utilized in the construction, maintenance and operation of the cable television system authorized under the terms of this chapter.

2. Any change in ownership or control of the system resulting from the pledge or hypothecation shall not become absolute without:

a. The approval of the town; and

b. Any new grantee filing with the town its written acceptance of this chapter, the franchise and all the conditions thereto.

3. The acceptance shall be filed within 60 days following the date of the change.

(C) The Town Council may terminate the franchise prior to the date of expiration upon a finding, made after 30 days' notice of any proposed termination and public hearing, that:

(1) The grantee has failed to comply in some material respect with any of the provisions of this chapter, or has, by any act or omission, violated in some material respect any term or condition of any franchise or permit issued hereunder;

(2) The grantee made a material, false statement in the application for the franchise, knowing it to be false;

(3) The grantee, contrary to the best interest of public convenience and welfare, is not providing subscribers with regular, adequate and proper service; or

(4) The grantee failed to pay the correct and proper franchise fee when due.

(D) (1) In the event that the use of any tangible part of the CATV system is discontinued for any reason for a continuous period of 365 days, or the franchise has been terminated, cancelled or has expired, the grantee shall promptly remove from the streets or public places all such property of the system, other than that which the Town Council may permit to be abandoned in place, and as directed by the Town Council shall either restore the street or pay the town for restoring the street or other area from which the property has been removed to a condition for public use as good as the abutting portions thereof.

(2) Any property remaining in place 60 days after the termination or expiration of the franchise shall be considered permanently abandoned.
(Ord. 12, passed 11-12-1981)

§ 112.18 AUTHORITY GRANTED.

(A) The grantee of any franchise issued pursuant to the provisions of this chapter shall be authorized to construct, or have constructed, operate and maintain a CATV system and to engage in the business of providing a CATV service in the town, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain and retain in, over, on, under, upon, across and along any public street; the wires, cables, conductors, duets, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property excepting poles as may be necessary and appurtenant to the CATV system; and in addition, so to use, operate, and provide similar facilities or properties rented or leased from other persons, including but not limited to any public utility or other grantee franchised or permitted to do business in the town.

(B) (1) (a) The grantee may initially charge subscribers and users of the CATV system for services up to the amounts specified in its schedule of rates and charges as proposed in its franchise application and approved by the Town Council.

(b) The maximum rates shall be in effect for a minimum period of six months from the effective date of the franchise or until grantee has completed all construction as proposed in its franchise application, whichever is longer.

(2) The grantee may establish rates for service from time to time thereafter by filing with the Town Council a schedule of rates 30 days prior to their implementation.

(3) (a) At any time after a minimum period of two years from the effective date of the franchise or until grantee has completed all construction as proposed in its franchise application, whichever is longer, the Town Council may determine whether it will assume rate modification authority.

(b) 1. If the Town Council declines rate modification authority, then rates may be modified by grantee as specified in division (B)(1) above.

2. If the Town Council assumes rate modification authority, then for the term designated, rates shall be subject to modification only by the Town Council and only in accordance with the following procedures:

a. The grantee may petition the Town Council for a change in rates by filing a revised rate schedule, including its justifications, for the proposed new schedule.

b. i. Within ten days of notification by the Town Council of the place and time established for a hearing on the petition, the grantee shall notify its subscribers of the hearing by announcement on at least one channel of its system, between the hours of 7:00 p.m. and 9:00 p.m., for five consecutive days.

ii. Additionally, hearings shall be announced in a newspaper of general circulation at least five days before the data of the hearing and at the expense of grantee.

iii. Following all proper notice, but in no event later than 75 days from the date of the petition, the Town Council shall hold an appropriate public hearing to consider the proposed new rates, at which hearing all parties desiring to be heard, including the grantee, shall be heard on any matters relating to performance under this franchise, the grantee's services, and the proposed new rates.

(C) Within 40 days after the hearing, the Town Council shall render a written decision on the grantee's petition, either accepting, rejecting, or modifying the same and reciting the basis for its decision.

(D) (1) If the Town Council fails to act within 115 days of the grantee's petition pursuant to division (B)(3)(b)2.a. above, the grantee shall thereafter be entitled to put its proposed new rates into effect on a provisional basis, provided that it shall keep a full and accurate accounting of all income resulting from the provisional rates and shall be obliged for a period of 90 days thereafter to refund the amount by which the provisional rates exceed the rates ultimately established by the Town Council.

(2) Upon reasonable request by the Town Council, the grantee shall provide a bond or other reasonable surety to ensure that possible refunds due under this division shall be promptly made.

(E) (1) The criteria for the Town Council's decision in such matters shall be the establishment of rates which are fair and reasonable to both the grantee and its subscribers and shall be generally defined as the minimum rates necessary to meet all applicable costs of service, including fair return on all invested capital, all assuming efficient and economical management.

(2) Grantees' costs in operating, maintaining or constructing a system other than the Indian Trail system shall have no bearing and shall not be a factor to be considered.

(F) (1) In order for the Town Council to determine whether proposed rate changes conform with the criteria established in division (E)(1) above, the grantee's petition for a rate increase shall include the following financial reports, which shall reflect the operations of the town system only:

(a) Balance sheet;

(b) Income statement;

(c) Statement of sources and applications of funds;

(d) Detailed supporting schedules of expenses, income, assets and other items as may be required; and

(e) Statement of current and projected subscribers and penetration.

(2) The grantee's accounting records applicable to the town system shall be available for inspection by the town at all reasonable times.

(3) The town shall have access to records of financial transactions for the purpose of verifying burden rates or other indirect costs prorated to the town operation.

(4) The documents listed above shall include sufficient detail and/or footnotes as may be necessary to provide the town with the information needed to make accurate determinations as to the financial condition of the system.

(5) All financial statements shall be certified as accurate by an officer of grantee.

(G) Any disagreement between the town and the grantee concerning interpretations and calculations of the financial and statistical information provided by the grantee may be submitted to a court of competent jurisdiction when permitted by law.

(H) The grantee shall not engage in the sale, service, repair, rental or leasing of television receivers, radio receivers, parts or accessories and shall not require or attempt to influence its subscribers to deal with any particular person in regard thereto.

(I) Construction and maintenance of the CATV system, including house connections, shall be in accordance with the provisions of the:

(1) National Electrical Safety Code of the Institute of Electrical and Electronic Engineers;

(2) National Electronic Code of the National Fire Protection Association;

(3) Bell Telephone System's Code of Pole Line Construction; and

(4) Applicable federal, state and local laws, rules and regulations.
(Ord. 12, passed 11-12-1981; Am. Ord. passed 12-10-1981)

§ 112.19 CONDITIONS TO USE OF STREETS.

(A) (1) The poles used for a distribution system shall be those erected and maintained by the power companies, or the telephone company or either whenever agreement can be reached with the owners of such poles.

(2) Grantee shall be responsible for securing use permits, or joint use attachment agreements, from pole owners, at the sole expense of the grantee.

(3) Any poles, wires, cables, conduits or other properties to be realigned or reset to permit their use for purposes of grantee under an agreement with the owner thereof shall be constructed or installed only at the locations and depths and in the manner as shall be approved by the owner and the Town Council.

(4) They shall be located so as to cause minimum interference with the proper use of streets and to cause minimum interferences with the rights or reasonable convenience of the general public and of property owners who adjoin the street.

(B) (1) The installation of the facilities, including service drops to subscribers, shall be made underground in areas where facilities of both the telephone company or the power company are underground or hereafter may be placed underground.

(2) In addition to the foregoing, installation of the facilities shall be made underground when required by town ordinances or policies.

(C) (1) The grantee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from the street or other public place, any property of the grantee when required by the town by reason of uniformity of traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, or any other type of structures or improvements by the town, and the town shall not be liable for any disturbance of the grantee's installations resulting therefrom.

(2) The grantee shall carry out the instructions and directions of the Town Council whenever it is necessary to raise or remove any of the grantee's wires or cables temporarily, for the purpose of moving or removing buildings or structures on the public streets of the town, and shall perform the tree trimming or other maintenance work as shall be required as shall be directed by the Town Council, all at the grantee's expense.

(D) (1) Whenever a grantee takes up or disturbs any pavement, sidewalk or other improvement of any street, the same shall be replaced and the surface restored in as good condition as before entry in accordance with ordinances, regulations, technical standards and fee schedules of the town as administered by the Town Clerk.

(2) Any opening or obstruction in the streets shall be guarded and protected at all times by the placement of adequate barriers, fences or boardings, the bounds of which shall be clearly designated by warning lights of approved types.
(Ord. 12, passed 11-12-1981; Am. Ord. passed 12-10-1981)

§ 112.20 PERMITS, INSTALLATION, AND SERVICE.

(A) Within 30 days after the effective date of the franchise, the grantee shall at its own expense proceed with due diligence to obtain all necessary permits and authorizations which are required in the conduct of its business, including, but not limited to, any utility joint use attachment agreements.

(B) Within 90 days after obtaining all necessary permits, licenses and authorizations, the grantee shall commence construction and installation of the CATV system.

(C) Within one year after receiving grant of a franchise and after obtaining all necessary permits and authorization, grantee shall proceed to render service to subscribers in all of the franchise area, including any satellite annexed areas.

(D) Failure on the part of the grantee to commence and diligently pursue each of the foregoing requirements and to complete each of the matters set forth herein, shall be grounds for termination of the franchise, under and pursuant to the terms of § 112.17 hereof; provided, however, the Town Council may extend the time for the commencement and completion of construction and installation for additional periods in the event the grantee, acting in good faith, experiences delays by reason of circumstances beyond its control.

(E) The grantee shall file a map with the town at the close of each franchise year, showing the areas, and locations of the town being served by the CATV system and the location and identification of component parts of the system.
(Ord. 12, passed 11-12-1981)

§ 112.21 IN GENERAL.

(A) (1) The grantee shall install and maintain a CATV system which shall be in accordance with the highest and best accepted standards of the industry to the effect that subscribers shall receive the highest possible service.

(2) In addition, the grantee shall comply with all requirements of duly constituted regulatory agencies having jurisdiction over the operator of CATV systems.

(B) The grantee must obtain individual permits for street openings, must have the installation or construction plans approved prior to construction, must secure all necessary permits at its expense and must pay all fees charged for closing pavement cuts.

(C) When any portion of the CATV system is to be installed on public utility poles and facilities, a certification that agreements for the joint use have been entered shall be filed with the town.

(D) (1) The grantee shall maintain a local office and a local phone number, non toll cost, for the purpose of handling subscriber complaints and providing prompt maintenance service.

(2) The local office shall be open during all regular business hours, and have a publicly listed telephone which shall be so operated that complaints and requests for repairs or adjustments may be received on a 24-hour basis.

(3) The grantee shall establish procedures for receiving, acting upon and resolving subscriber complaints to the satisfaction of the Town Council.

(4) The grantee shall furnish a notice of the procedures to each subscriber at the time of initial subscription to the system.
(Ord. 12, passed 11-12-1981)

§ 112.22 FEE.

(A) The grantee shall pay to the town on a semi-annual basis, a franchise fee which shall be a sum equal to 3% of its gross annual receipts for each year that the franchise is in effect, for the privilege of constructing, operating and maintaining the CATV system as defined in § 112.03, and for the privilege of providing CATV service as defined in § 112.03.

(B) All payments by the grantee to the town shall be made semi-annually. The initial semi-annual payment being due within 90 days of June 1, 1982; and then every six months thereafter for each year any franchise is in effect.

(C) The grantee shall file with the town within 60 days after the close of each of grantee's fiscal years, a financial statement prepared by a certified public accountant, showing in detail the gross annual receipts, as defined herein, of grantee during such fiscal year.

(D) The payment of this fee is in addition to any ad valorem taxes which the town may levy on the grantee's real or personal property.

(E) At any time after the payment of the franchise fee, the town shall have the right to inspect the grantee's records showing the gross annual receipts from which these payments are computed and the right of audit and recomputation of any and all amounts under this chapter.

(F) Acceptance of payments hereunder shall not be construed as a release or as an accord and satisfaction of any claim the town may have for further or additional sums payable under this chapter or for the performance of any other obligations hereunder.

(G) In the event of holding over after expiration or other termination of, any franchise granted hereunder, without the consent of the town, the grantee shall pay to the town reasonable compensation and damages, of not less than 100% of its total gross profits during the period.
(Ord. 12, passed 11-12-1981; Am. Ord. passed 12-10-1981)

§ 112.23 AREA OF SERVICE.

(A) Unless otherwise limited by the franchise ordinance, the franchise area shall include the present corporate limits of the town and any area henceforth added thereto during the term of the franchise or any extension thereof, including territory annexed pursuant to satellite annexation authority.

(B) Neither the franchise ordinance nor this chapter shall affect the rights of any other cable television grantor holding a governmental franchise in an annexed area nor does the town guarantee that no such franchise operators shall exist in the annexed area.
(Ord. 12, passed 11-12-1981)

§ 112.24 EXTENSION OF SERVICE.

Subject to § 112.20(C) the grantee shall make cable television service available to all residents of the franchise area who apply therefor and are willing to pay the various service rates and installation and/or reconnection charges established by the grantee pursuant to the terms of this chapter, the grantee's application and franchise ordinance.
(Ord. 12, passed 11-12-1981)

ADMINISTRATION; ENFORCEMENT

§ 112.35 RIGHTS RESERVED TO THE TOWN.

(A) Nothing herein shall be deemed or construed to impair or affect, in any way, to any extent, any right of the town to acquire the property of the grantee, either by purchase or through the exercise of eminent domain.

(B) The town hereby reserves the right to amend any section or part of this chapter.

(C) At all reasonable times, the grantee shall permit any duly authorized representative of the town:

(1) To examine any and all financial records maintained by or under the control of the grantee relating to all revenue obtained by it from its operations under the franchise;

(2) To inspect and obtain copies of any or all maps or other diagrams maintained by or under the control of the grantee showing the location and the layout of the various components of the CATV system operated by it under its permit; and/or

(3) To inspect any and all installations owed, maintained, or used by the grantee in its operations under its franchise including all towers, cables and other components of the grantee's CATV system.

(D) The grantee shall indemnify and save harmless the town, its officers and employees, from and against any and all claims, demands, actions, suits, and proceedings by others, and against all liability to others, arising out of the exercise or enjoyment of its franchise, including but not limited to any liability for damages by reason of or arising out of any failure of the grantee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by the grantee's CATV system, and against any loss, cost, expense and damages resulting therefrom, including reasonable attorney's fees.

(E) Concurrently with the filing of the written acceptance, as required in § 112.16, the grantee shall file with the Town Clerk, and at all times thereafter maintain in full force and effect for the term of the franchise or any renewal thereof:

(1) A good and sufficient liability insurance policy or policies, written by a company or companies licensed and authorized to do business in the state, providing a minimum of $300,000 coverage for personal injuries to each person; $500,000 coverage for all personal injuries in each accident; and $500,000 coverage for all property damage in each accident. The policy or policies shall name the town as an additional insured and shall be for the purpose of insuring the town against any

damages to it and any and all legal liability, court costs, claim or demand for personal injury, death or property damage arising out of the operations of the grantee under this chapter or its franchise. Any coverage of the grantee in addition to the above minimum limits shall also name the town as an additional insured and/or beneficiary. Grantee shall also maintain in full force and effect throughout the duration of any franchise ordinance sufficient worker's compensation insurance coverage to adequately and fully protect its agents and employees as required by law.

(2) The town shall not be liable for any damage occurring to the grantee's property caused by employees or agents of the town, nor shall the town be liable for the interruption of services of the grantee caused by actions of the town's employees or agents in the performance of their duties, nor shall the town be liable for failure of the grantee to perform normal services due to acts of God. Nothing herein above specified shall infer liability on the town's part for anything not herein above specified.

(F) The grantee shall, concurrently with the effective date of the franchise ordinance, post with the town and at all times thereafter maintain in full force and effect for the term of the franchise or any renewal thereof, at the grantee's sole cost and expense either:

(1) A corporate surety bond issued by a responsible insurance company licensed to do business in the state and approved by the town in the amount of $5,000, renewable annually, and conditioned upon the faithful performance of the grantee of all the provisions of the franchise agreement and this chapter, and upon the further condition that in the event grantee shall fail to comply with any one or more of the provisions of the franchise agreement or this chapter, there shall be recoverable jointly and severally from the principal and surety of the bond any damages or loss suffered by the town as a result thereof, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the grantee as prescribed hereby plus a reasonable allowance for attorney's fees and costs, up to the full amount of the bond, the condition to be continuing obligation for the duration of the franchise and any renewal thereof and thereafter until the grantee has liquidated all of its obligations arising out of the acceptance of this franchise or renewal by the grantee or from the exercise of any privileges or right herein granted or the performance of any covenants or obligations imposed hereby. The bond shall provide that at least 30-days' prior written notice of intention not to renew, cancel or materially change be given to the town by filing the same with the Town Council.

(2) A letter of credit in a form approved by the Town Council to the town in the amount of $5,000 issued by a local lending institution approved by the town and payable upon demand by the town. This letter of credit shall be used to protect the town from the same contingencies as enumerated in division (F)(1) above for a corporate surety bond.
(Ord. 12, passed 11-12-1981; Am. Ord. passed 12-10-1981)

§ 112.36 FRANCHISE AREA AND EXTENSION OF SERVICE.

(A) Unless otherwise limited by the franchise ordinance, the franchise area shall include the present corporate limits of the town and any area henceforth added thereto during the term of the franchise or

any extension thereof including territory annexed pursuant to "satellite" annexation authority. Neither the franchise ordinance nor this ordinance shall affect the rights of any other cable television grantor holding a governmental franchise in an annexed area nor does the town guarantee that no franchise operators shall exist in such annexed area.

(B) Subject to § 112.20(C), the grantee shall make cable television service available to all residents of the franchise area who apply therefore and are willing to pay the various service rates and installations and/or reconnection charges established by the grantee pursuant to the terms of this chapter, the grantee's application and the franchise ordinance.
(Ord. 12, passed 11-12-1981)

§ 112.37 EXPENSE REIMBURSEMENT.

(A) The grantee shall pay the town a sum of money which will reimburse all costs and expenses incurred by it in connection with preparation of this chapter, the franchise ordinance and agreement, and the granting of a franchise, including, but not limited to, consultant fees, attorneys' fees, publication fees, travel expenses and all other direct costs; provided, however, that the costs and expenses shall not exceed the sum of $1,000 and the town shall submit a detailed schedule of all the costs.

(B) The payment shall be made within 30 days after the town furnishes the grantee with a written statement of the expenses.
(Ord. 12, passed 11-12-1981)

CHAPTER 113: LEASE OR RENTAL OF VEHICLES

Section

Tax on Gross Receipts; Short-Term

113.01 Definitions
113.02 Levy
113.03 Collection
113.04 Report and payment
113.05 Taxpayer to keep records
113.06 Tax Collector to provide forms
113.07 Situs
113.08 Authority
113.09 Administration

113.99 Penalty

Cross-reference:

Privilege License Taxes, see Ch. 110

TAX ON GROSS RECEIPTS; SHORT-TERM

§ 113.01 DEFINITIONS.

For the purpose of this subchapter, 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. 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. § 105-167.3(17))

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))

PERSON. Individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.

SHORT-TERM LEASE OR RENTAL. Any lease or rental of a vehicle that is not a long-term lease or rental.
(G.S. § 160A-215.1(e)(2) and G.S. § 105-187.1(7))

TAX COLLECTOR. The 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 subchapter.

VEHICLE. Any of the following:

(1) A motor vehicle of the private passenger type, including a passenger van, minivan, or sport utility vehicle;

(2) A motor vehicle of the cargo type, including 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 driver's license; or

(3) A trailer or semitrailer with a gross vehicle weight of 6,000 pounds or less.
(G.S. § 160A-215.1(e)(1))
(Ord. passed 6-27-2000)

§ 113.02 LEVY.

(A) A tax is hereby imposed and levied in an amount equal to 1.5% of the gross receipt derived from the short-term lease or rental of vehicles at retail to the general public.

(B) This tax on gross receipts is in addition to the privilege taxes authorized by G.S. § 160A-211. (Ord. passed 6-27-2000)

§ 113.03 COLLECTION.

(A) Every person engaged in the business of the short-term lease of rental 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 the tax to the Tax Collector in accordance with the provisions of this subchapter.

(B) The taxpayer shall include a provision in each retail short-term lease or rental agreement stating that the percentage sales tax, is being charged as a tax on gross receipts.

(C) The amount of the tax shall be stated separately from the lease or rental and shown separately on the taxpayer's records.

(D) The tax shall be paid by the customer to the taxpayer as trustee for and on account of the town.

(E) 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 the liability. (Ord. passed 6-27-2000) Penalty, see § 113.99

§ 113.04 REPORT AND PAYMENT.

(A) Taxes levied under this subchapter are due and payable when a return is required to be filed.

(B) Every taxpayer shall, within the time specified, submit a return to the Tax Collector on the form prescribed by the Tax Collector.

(C) A return must be signed by the taxpayer or the taxpayer's agent.

(D) 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.

(E) 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 6-27-2000) Penalty, see § 113.99

§ 113.05 TAXPAYER TO KEEP RECORDS.

(A) The taxpayer shall keep and preserve suitable records of the gross receipts received by the taxpayer in the conduct of business and the other books or accounts as may be necessary to determine the amount of the tax for which the taxpayer is liable under the provisions of this subchapter.

(B) 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.

(C) 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 or her duly authorized agent.
(Ord. passed 6-27-2000) Penalty, see § 113.99

§ 113.06 TAX COLLECTOR TO PROVIDE FORMS.

(A) 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.

(B) The failure of any taxpayer to obtain or receive forms shall not relieve the taxpayer from the payment of the tax at the time and in the manner provided.
(Ord. passed 6-27-2000)

§ 113.07 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 6-27-2000)

§ 113.08 AUTHORITY.

This chapter is enacted pursuant to the provisions of G.S. § 160A-215.1.
(Ord. passed 6-27-2000)

§ 113.09 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. §§ 105-164.1 *et seq.*
(G.S. § 160A-215.1(d)) (Ord. passed 6-27-2000)

§ 113.99 PENALTY.

(A) The provisions with respect to remedies and penalties applicable to G.S. § 105-164.44 and G.S. §§ 105-228.90 *et seq.* thereof, shall be applicable in like manner to the tax authorized to be levied and collected under this subchapter, to the extent that the same are not inconsistent with the provisions hereof.

(B) The governing body of the town may exercise any power the Secretary of Revenue may exercise in collection sales and use taxes.
(G.S. § 160A-215.1(f)) (Ord. passed 6-27-2000)

CHAPTER 114: SOLICITATIONS

Section

114.01 Soliciting prohibited

Cross-reference:

Privilege License Taxes, see Chapter 110

§ 114.01 SOLICITING PROHIBITED.

(A) It shall be unlawful for any person to solicit contributions, or sales of any kind, and to distribute any kind of communication material, souvenirs, free samples, services, or otherwise, within the rights of way of public streets, roads and highways within the town limits of the town.

(B) Notwithstanding division (A), parades and other events within designated rights of way shall be permitted as and where sanctioned or sponsored by the town.

(C) Violation of this section will be considered a misdemeanor and will be punishable pursuant to the laws of the state and § 10.99 of this code.
(Ord. 42, passed 12-10-2002) Penalty, see § 10.99

TITLE XIII: GENERAL OFFENSES

Chapter

130. FIREARMS

CHAPTER 130: FIREARMS

Section

130.01 Definition
130.02 Discharge unlawful
130.03 Exceptions
130.04 Possession or discharge by children
130.05 Applicability

130.99 Penalty

§ 130.01 DEFINITION.

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

FIREARM. Any weapon or similar instrument from which shot, shells, bullets, or similar projectiles are discharged by means of the explosion of gunpowder.
(Ord. passed 9-8-1998)

§ 130.02 DISCHARGE UNLAWFUL.

Except as provided in § 130.03 of this chapter, it shall be unlawful for any person to discharge a firearm within the municipal limits of the town.
(Ord. passed 9-8-1998) Penalty, see § 130.99

§ 130.03 EXCEPTIONS.

The provisions of this chapter shall not apply to the following:

(A) A person hunting with a shotgun on his or her own property, or on another's property if he or she has written permission for the activity from the owner of the property on his or her person at all

times, exhibiting reasonable regard for his or her neighbors' person and property, or if the person has permission for the activity from all persons owning any of the following types of places or structures which are located within 150 yards of the hunting activity:

(1) A dwelling house;

(2) A school;

(3) A church;

(4) Any other type of building, while occupied;

(5) A public or private park or recreation area; or

(6) Any other type of public gathering place.

(B) Law enforcement officers or members of the armed forces discharging firearms in the line of duty;

(C) Persons discharging firearms for the purpose of shooting or killing any dangerous animal or reptile; or

(D) A person discharging a firearm in self-defense.
(Ord. passed 9-8-1998)

§ 130.04 POSSESSION OR DISCHARGE BY CHILDREN.

(A) It shall be unlawful for any person, being a parent or guardian of, or standing in loco parentis to, any child under 12 years of age, to permit the child to have possession or custody of, or use in any manner whatsoever, any firearms, whether the firearm is loaded or is not loaded, without direct, active adult supervision of the child at all times the child is holding the firearm.

(B) It shall be unlawful for any person being a parent or guardian of, or standing in loco parentis to, any child between 12 years of age and 15 years of age, to permit the child to discharge a firearm without direct, active adult supervision of the child at all times the child is firing the firearm unless the child has passed a hunter safety course or similarly recognized course in firearms safety.
(Ord. passed 9-8-1998) Penalty, see § 130.99

§ 130.05 APPLICABILITY.

The provisions of the chapter shall apply to all persons engaged in hunting as regulated by Subchapter III of Chapter 113 of the General Statutes, or similar successor statutes.
(Ord. passed 9-8-1998)

§ 130.99 PENALTY.

The violation of any provision of this chapter shall be a misdemeanor and may be punishable by a fine of not more than $50 or imprisonment for not more than 30 days.
(Ord. passed 9-8-1998)

TITLE XV: LAND USAGE

Chapter

150. BUILDING CODE

151. LAND DEVELOPMENT STANDARDS

152. STORM WATER; FLOOD CONTROL

153. SUBDIVISIONS

154. ZONING

Indian Trail - Land Usage

CHAPTER 150: BUILDING CODE

Section

150.01 Building code
150.02 Department of Inspections

§ 150.01 BUILDING CODE.

The town's building code is hereby adopted by reference and incorporated herein as if set out in full.

§ 150.02 DEPARTMENT OF INSPECTIONS.

(A) (1) The County Department of Inspections shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites in the town will be reasonably safe from flooding.

(2) If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement, including prefabricated and mobile homes, must:

(a) Be designed or modified and anchored to prevent flotation, collapse, or lateral movement of the structure;

(b) Use construction materials and utility equipment that are resistant to flood damage; and

(c) Use construction methods and practices that will minimize flood damage.

(B) The County Department of Inspections shall review subdivision proposals and other proposed new developments in the town to assure that:

(1) All such proposals are consistent with the need to minimize flood damage;

(2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated, and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided so as to reduce exposure to flood hazards.

(C) The County Department of Inspections shall require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding. (Res. 78, passed 6-10-1976)

CHAPTER 151: LAND DEVELOPMENT STANDARDS

Section

151.01 Land development standards

§ 151.01 LAND DEVELOPMENT STANDARDS.

The town's land development standards are hereby adopted by reference and incorporated herein as if set out in full.

CHAPTER 152: STORM WATER; FLOOD CONTROL

Section

152.01 Storm water regulations

§ 152.01 STORM WATER REGULATIONS.

The town's storm water regulations are hereby adopted by reference and incorporated herein as if set out in full.

Cross-reference:

Department of Inspections, see § 150.02

CHAPTER 153: SUBDIVISIONS

Section

153.01 Subdivision regulations

§ 153.01 SUBDIVISION REGULATIONS.

The town's subdivision regulations are hereby adopted by reference and incorporated herein as if set out in full.

CHAPTER 154: ZONING

Section

154.01 Zoning regulations

§ 154.01 ZONING REGULATIONS.

The town's zoning regulations are hereby adopted by reference and incorporated herein as if set out in full.

TABLE OF SPECIAL ORDINANCES

Table

I. ANNEXATIONS

II. FRANCHISE AGREEMENTS

TABLE I: ANNEXATIONS

Editors Note: Some of the ordinance numbers have been amended

Date Effective	*Ord. No*	*Description*	*Recording Information*
Not completed	21	Area 96-A	- -
Not completed	22	Area 96-B	- -
Not completed	24	Area 96-A.a - Wesley Chapel	- -
Not completed	26	Area 96-B.a - Hemby Bridge	- -
Not completed	27	Area 96-B.b - Haywood Road	- -
Pending	107	AVTEX property, 12.74 AC, Wesley Chapel Stouts Road and Old Charlotte Hwy	- -
On hold	104	D&D Properties, Inc. - Grayson Subdivision, Rogers Road	- -
3-14-1974	1	Rushing Park Subdivision, Maude Street	Book 265, Page 335
3-13-1975	2	O'Neal & Kindley Property, 44.22 AC., Maude Street	Book 277, Page 202
3-13-1975	3	O'Neal Property (Done w/ #2 & 4)	Book 277, Page 202
3-13-1975	4	Kindley Property (Done w/ #2 & 3)	Book 277, Page 202
10-16-1975	5	Cherokee Woods/Flowe Property - 171.93 AC, Old Charlotte Hwy	Book 279, Page 473
10-13-1977	6	Crowell Park - 36.74 AC, Hwy 74	Book 304, Page 145

Date Effective	*Ord. No*	*Description*	*Recording Information*
10-13-1977	7	Bryson Village - 36.1 AC, Old Hwy 74	Book 304, Page 147
6-13-1985	8	Smith Farm Road & Matthews-Indian Trail Road	Book 1802, Page 759
4-1-1985	9	Old Charlotte/Chestnut Lane and Woodland Road	Book 389, Page 174
10-10-1985	14-A	Enchanted Forest	Book 411, Page 624
3-26-1987	10	Suburban Heights/Hwy 74	Book 418, Page 867
3-26-1987	17	Indian Brook Subdivision/Old Charlotte Hwy	Book 418, Page 871
7-1-1987	11	Hwy 74/Waxhaw-Indian Trail Road	Book 421, Page 864
3-31-1988	12	South Fork Road/Waxhaw-Indian Trail Road/Old Charlotte Hwy	Book 435, Page 134
6-30-1988	13	Plyler Road Property-55.8 AC	Book 440, Page 712
6-30-1990	14-B	Remainder of Enchanted Forest, Wonderland Drive, Majestic Lane and Old Charlotte Highway	Book 458, Page 242
4-15-1992	16	11.1941 AC - Pioneer Lane	Book 1822, Page 420
6-30-1992	15	Wesley Chapel Stouts Rd/Waxhaw-Indian Trail Road/Old Charlotte Hwy	Book 506, Page 166
12-31-1993	18	Red Barn Trail	Book 1822, Page 415
12-31-1993	19-A	Koski Property/Senconee Road	Book 1822, Page 423
12-31-1993	19-B	Wesley Chapel-Stouts Road and Rogers Road	Book 1822, Page 417
6-30-1994	21-A	First Baptist Church	Book 699, Page 837

Date Effective	*Ord. No*	*Description*	*Recording Information*
6-30-1994	22-A	Walters Property/Unionville-IT Road	Book 1822, page 426
6-30-1994	20	Area 95-B Potter Road/ Fincher Road	Book 757, Page 273
6-30-1994	19	Area 95-A - Ashcroft, Brittany Downs East, Clover Bend, Sandalwood, Tower Industrial Park, Part of Boren Brick	Book 757, Page 280
12-31-1996	23	Hayes Property, 72.18 AC, Elaine Drive	Book 942, Page 697
8-12-1997	28	Hilton Property/ 106.33 AC, Wesley Chapel Stouts Road	Book 1004, Page 131
8-31-1997	25	Area 96-A.b. - Brandon Oaks	Book 1011, Page 003
1-14-1998	31	Sandy Ridge Developers Property/ Traewyck Subdivision	Book 1076, Page 348
1-14-1998	32	Garrison Property & South Central Oil Property/2.30 & .69 AC, Wesley Chapel Stouts Road	Book 1076, Page 351
1-14-1998	33	Richardson Property - 12 AC, Oakwood Lane	Book 1146, Page 0012
3-21-1998	37	Hatcher Property/ 52.75 AC, Indian Trail Industrial Park	Book 1146, Page 0019
3-31-1998	34	Brandon Oaks, Phase II 34.078 AC	Book 1126, Page 368
3-31-1998	35	280 AC, Unionville-Indian Trail Road & Secrest Short Cut Road	Book 1146, Page 608
5-21-1998	39	492.634 AC, Indian Trail-Fairview Road/Stinson Hartis Road	Book 1152, Page 582

Date Effective	*Ord. No*	*Description*	*Recording Information*
5-25-1998	40	Park Road Shopping Center, 291.21 AC, Wesley Chapel Stouts Road	Book 1141, Page 0867
6-1-1998	38	Hoyle Property/1.627 AC, Unionville-Indian Trail Road	Book 1152, Page 571
6-23-1998	41	Sherin Property, 7.678 AC, Sherin Road	Book 1146, Page 0022
6-23-1998	42	Simpsonville Property, 5.192 AC, Indian Trail-Fairview Road	Book 1146, Page 0613
6-23-1998	43	Strand Property, 9.784 AC, Indian Trail-Fairview Road	Book 1146, Page 0025
6-23-1998	44	Tyson Group Property, 471.46 AC, Mill Grove Road	Book 1146, Page 616
7-14-1998	45	Love Construction Property, 49.66 AC, Indian Trail-Fairview Road	Book 1135, Page 0549
8-11-1998	46	FAE G. Purser Property, 41.23 AC, Indian Trail-Fairview Road	Book 1135, Page 0552
10-14-1998	47	Summerston at Brandon Oaks, Phase 2B 7.714 AC	Book 1160, Page 541
11-10-1998	48	David Lister Property, 5.65 AC, Stinson-Hartis Road	Book 1176, Page 587
11-10-1998	49	Stephen Goodman Property/Union Town Centre, Hwy 74 and Faith Church Road	Book 1176, Page 590
11-10-1998	50	Helder Property 137.72 AC	Book 1176, Page 0598
11-10-1998	51	Eunice Griffin Property, 80 AC, Faith Church Road	Book 1176, Page 0598

Date Effective	*Ord. No*	*Description*	*Recording Information*
12-31-1998	29	Area 98-A - 270.14 AC, Haywood Road	Book 1228, Page 397
1-31-1999	30	Area 98-B - Wesley Chapel Stouts & Goldmine Road	Book 1216, Page 782
2-28-1999	36	Indian Trail-Fairview Road/Faith Church Road/Beverly Drive/Secrest Short Cut Road/Unionville-Indian Trail Road	Book 1225, Page 583
6-8-1999	52	Wadsworth Meadows/William H. Gay Property, 71.03 AC, Waxhaw-Indian Trail Road & Pioneer Lane	Book 1284, Page 739
6-8-1999	53	Glaze, Weber & Hayes Prop, 98.55 AC, Secrest Short cut Road	Book 1284, Page 735
2-22-2000	54	Roselynd H. Myers Property, 30.82 AC, Haywood Road	Book 1361, Page 396
4-11-2000	55	Selway Drive, 7 Lots, Traewyck Subdivision	Book 1404, Page 575
5-9-2000	56	St. Mark's Inc. Property, 4.19 AC, Sardis Church Road	Book 1404, Page 580
6-13-2000	57	Sardis Baptist Church Property, 16.90 AC, Sardis Church Road	Book 1410, Page 837
6-13-2000	58	Insight Communities, LLC Property, 26.186 AC, Wesley Chapel Stouts Road	Book 1410, Page 840
6-13-2000	59	Cottage Creek Road Property, 9 Lots, Traewyck Subdivision	Book 1410, Page 843
8-8-2000	60	Plyler Road Group, 4.87 AC, Plyler Road	Book 1452, Page 443
8-8-2000	61	Brandon Oaks, Phase 5 - 17.174 AC	Book 1452, Page 446

Date Effective	*Ord. No*	*Description*	*Recording Information*
8-8-2000	62	Arbor Glen Subdivision, 113.58 AC	Book 1452, Page 450
8-8-2000	63	Horne Property, 16.296 AC, Hartis Grove Church Road	Book 1452, Page 454
9-12-2000	64	Cornerstone/Wincrest - 155.51 AC	Book 1452, Page 458
10-10-2000	65	Raymond & Larry Hartis Property, 11.590 AC, Stinson Hartis Road	Book 1486, Page 156
10-10-2000	66	Hartis/Barnes/Burnett Property, 14.039 AC, Hartis Grove Church Road	Book 1527, Page 139
12-12-2000	67	Portion of Cornerstone Subdivision (Individual Homeowners)	Book 1534, Page 801
12-12-2000	68	Meriwether Subdivision - 26.17 AC, Rogers Road North Side	Book 1495, Page 784
12-12-2000	69	Ricky Dean Blanchard Property, 2.0 AC, Hartis Grove Church Road	Book 1495, Page 781
1-9-2001	70	Biggers & Richardson Property, 62.68 AC, Rogers Road	Book 1573, Page 584
3-13-2001	71	Reece Edward Alexander Property, 3.805 AC, Unionville-Indian Trail Road	Book 1619, Page 854
4-10-2001	72	Insight Communities, 401.179 AC, Poplin Road	Book 1628, Page 023
6-12-2001	77	Spivey Heirs Property, 1.78 AC, Indian Trail Fairview	Book 1628, Page 031
6-12-2001	78	AJM Properties, 18.240 AC, Old Monroe Road	Book 1628, Page 034
6-26-2001	79	Dover/Shelby Properties, 16.239 AC, Waxhaw-Indian Trail Road	Book 1628, Page 037

Date Effective	*Ord. No*	*Description*	*Recording Information*
6-30-2001	73	Area 01-A (Poplin Road/ Unionville-Indian Trail Road/ Secrest Short Cut Road)	- -
6-30-2001	74	Area 01-B, 1.61 AC, Unionville-Indian Trail Road & Secrest Shortcut	Book 1617, Page 808
6-30-2001	75	Area 01-C, 21.91 AC, Brittany Downs Subdivision	Book 1617, Page 811
11-13-2001	80	Broadway/Malcom Property, 264.470 AC, Rocky River Road	Book 1714, Page 366
11-13-2001	84	First Baptist Church Property, 77.35 AC, Poplin Road	Book 1714, Page 377
11-30-2001	81	Cornerstone, Lots 6, 23 & 117	Book 1714, Page 363
12-11-2001	82	Providence Hills Subdivision	Book 1822, Page 410
12-11-2001	83	Brandon Oaks, Phase 5B - 58.047 AC	Book 1734, Page 056
2-12-2002	86	Providence Hills; Abraham; McElroy & Hartis Property	Book 1822, Page 444
3-12-2002	89	Chase/Leighton Property, 33 AC, Faith Church Road	Book 1822, Page 441
4-9-2002	90	Duke & Sherin Property, 80.69 AC, Stinson Hartis & Oak Spring Road	Book 1833, Page 139
4-30-2002	87	Braefield Area - 163.99, AC	Book 1833, Page 135
5-14-2002	85	97.32 AC - Brickyard & Hayes Road	Book 1877, Page 044
5-14-2002	91	Crumps/Forbis Property, 33.03 AC, Oak Spring Road	Book 1877, Page 037

Date Effective	*Ord. No*	*Description*	*Recording Information*
6-30-2002	76	63.66 AC, Boren Brick Property	Book 1877, Page 040
7-9-2002	93	Garber/Ferreira Property, Lot 27, Providence Hills & Lot 126, Cornerstone	Book 1886, Page 448
8-13-2002	95	Crump Property, 3.23 AC, Oak Spring Road	Book 1931, Page 328
8-27-2002	96	Edwards Property/Hemby Bridge Elem., 182 AC, Indian Trail-Fairview	Book 1931, Page 324
8-27-2002	92	Hayes Property, 9.76 AC, Hayes Road	Book 1931, Page 321
9-10-2002	97	Meriwether Subdivision, 9.714 AC, Bearcreek Area	Book 1953, Page 811
9-10-2002	103	Love Property, 11.591 AC, Rogers Road	Book 1953, Page 808
2-11-2003	105	Renfrow Property, 265.987 AC, Brookhaven Subdivision	Book 3077, Page 399
2-28-2003	88	Emerald Woods - 538.82, AC	Book 1833, Page 126
4-8-2003	106	Rash Property, 16.86 AC, Lawyers Road West	Book 3065, Page 288
6-10-2003	107	Avtex Property, 12.740 acres, Wesley Chapel-Stouts Road/Old Charlotte Hwy	Book 3115, Page 653
6-30-2003	98	Alexis Pointe Subdivision Area (Involuntary)	Book 3115, Page 656
6-30-2003	99	"Eight Properties Area" (Involuntary), 8 Lots, Cornerstone; Scott Long Subdivision; Skidmore Property, Hwy 74, Stinson Hartis Road; Wesley Chapel Stouts Road, Old Charlotte Hwy	Book 3115, Page 661

Date Effective	*Ord. No*	*Description*	*Recording Information*
6-30-2003	100	Curb Masters Property Area, (Involuntary), Old Charlotte Hwy	Book 3115, Page 673
6-30-2003	101	Fincher/Waxhaw-Indian Trail Road (Involuntary)	Book 3115, Page 668
6-30-2003	102	West Street/2 Lots Providence Hills (Involuntary)	Book 3297, Page 720
9-9-2003	105-A	Portion of Brookhaven Subdivision .98 acres	Book 3297, Page 709
11-11-2003	107-A	Avtex Propery, 1.367 acres, Wesley Chapel-Stouts Road/Old Charlotte Hwy	Book 3331, Page 454
11-11-2003	109	Helen Crowell Property 20.541 acres, Stevens Mill Road	Book 3331, Page 448
11-15-2003	108	Grezdiers, Leah and Ivan Lots 11, 12, and 13 Green Meadows	Book 3297, Page 723
11-15-2003	110	Intralina Realty Property 115.01 acres and 26.623 acres Hawfield Road	Book 3297, Page 716
11-15-2003	111	Brandon Oaks Phase 6 and 7, 148.510 acres	Book 3297, Page 712
12-9-2003	112	Edward and Charles Crowell Property, 3.426 ac. and 993 ac. Stevens Mill Road	Book 3331, Page 451
9-14-2004	114	Gendron Property, 5.807 acres; 5.807 acres and 5.806 acres	Book 3643, Page 132
11-9-2004	115	Piedmont Landscaping Property	Book 3699, Page 495
1-11-2005	116	Funderburk Property, 28.34 acres	Book 3699, Page 493

TABLE II: FRANCHISE AGREEMENTS

Ord. No.	*Date Passed*	*Description*
1	1-27-1958	Granting a telephone franchise to North Carolina Telephone Company
11	11-12-1981	Granting a cable television system franchise to Tar River Communications, Inc.
13	12-10-1981	Granting a cable television system franchise to Tar River Communications, Inc.
Res. 24	2-10-1983	Approval of the transfer of ownership of the cable television system franchise to American Television and Communications from Tar River Communications
-	2-9-1989	Granting a natural gas franchise to North Carolina Natural Gas Corporation
28	1-27-1997	Extension of the existing cable television system franchise to Time Warner Entertainment-Advance Newhouse Partnership
-	3-24-1997	Extension of the existing cable television system franchise to Time Warner Entertainment-Advance Newhouse Partnership
-	9-9-1997	Extension of the existing cable television system franchise to Time Warner Entertainment-Advance Newhouse Partnership
-	- -	Extension of the existing cable television system franchise to Time Warner Entertainment-Advance Newhouse Partnership
44	2-11-2003	Consent to the transfer of the natural gas franchise from North Carolina Natural Gas Corporation to Piedmont Natural Gas Company, Inc. effective upon the transfer of all the outstanding and issued common stock of North Carolina Gas Corporation to Piedmont Natural Gas Company, Inc.

PARALLEL REFERENCES

References to General Statutes
References to Resolutions
References to Ordinances

REFERENCES TO GENERAL STATUTES

G.S. Reference	*Code Section*
1969 Session Laws, Ch. 825	Charter 5.2
14-4	91.99
14-4(a)	10.99
14-4(b)	10.99
14-288.1 through 14-288.20	Ch. 31
14-288.12	31.03
14-288.16	31.03, 31.05
15-27.2	91.04
20-16(c)	70.99
20-158	70.03
20-219.11	90.34
20-281	111.15
44A-1 *et seq.*	90.36
62-259 through 62-281	111.01
67-4.1 *et seq.*	92.02
67-30	92.02
Ch. 93B	110.35
105-109	110.64, 110.99
105-164.1 *et seq.*	113.09
105-164.3(7a)	113.01
105-164.44	113.99
105-167.3(17)	113.01
105-187.1(3)	113.01
105-187.1(4)	113.01
105-187.1(7)	113.01
105-228.90 *et seq.*	113.99
105.249.2	110.21
105-349	113.01
121-5	110.44, 110.63
130A-1 *et seq.*	91.01
130A-184 *et seq.*	92.02
130A-199	92.36
136-141 *et seq.*	90.02

G.S. Reference	*Code Section*
136-143	90.02
153A-121	92.02
153A-123	92.02
153A-123	92.99
153A-127	92.02
153A-131	92.02
160A-175	10.99
160A-175	91.99
160A-175(d)	110.99
160A-193 *et seq.*	91.06
160A-207	110.64
160A-208.1	113.04
160A-211	113.02
160A-215.1	113.08
160A-215.1(b)	113.07
160A-215.1(d)	113.09
160A-215.1(e)(1)	113.01
160A-215.1(e)(2)	113.01
160A-215.1(f)	113.99
160A-300.1	70.03
160A-303	90.01
160A-303.2	90.01
160A-314	50.01
Ch. 166A	Ch. 31
166A-4	31.01
166-8	31.01

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1	- -	30.01
78	6-10-1976	150.02
24	2-10-1983	TSO, Table II

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Ord. No.	*Date Passed*	*Code Section*
-	- -	Ch. 72, Schedule I
-	- -	TSO, Table II
24	- -	TSO, Table I
1	1-27-1958	TSO, Table II
1	3-14-1974	TSO, Table I
2	3-13-1975	TSO, Table I
3	3-13-1975	TSO, Table I
4	3-13-1975	TSO, Table I
5	10-16-1975	TSO, Table I
6	10-13-1977	TSO, Table I
7	10-13-1977	TSO, Table I
11	11-12-1981	TSO, Table II
12	11-12-1981	112.01 - 112.03, 112.15 - 112.24, 112.35 - 112.37
-	12-10-1981	112.16, 112.18, 112.19, 112.22, 112.35
13	12-10-1981	TSO, Table II
9	4-1-1985	TSO, Table I
8	6-13-1985	TSO, Table I
14A	10-10-1985	TSO, Table I
10	3-26-1987	TSO, Table I
17	3-26-1987	TSO, Table I
11	7-1-1987	TSO, Table I
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-	2-9-1989	TSO, Table II
17	2-9-1989	91.01 - 91.09, 91.99
25	9-14-1989	92.01 - 92.10, 92.20 -92.25, 92.35 - 92.37, 92.50 - 92.53, 92.99
14-B	6-30-1990	TSO, Table I

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20	4-9-1992	110.01 - 110.03, 110.15 - 110.21, 110.35 - 110.45, 110.55 - 110.65, 110.99
16	4-15-1992	TSO, Table I
15	6-30-1992	TSO, Table I
-	9-9-1993	30.02
18	12-31-1993	TSO, Table I
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22-A	6-30-1994	TSO, Table I
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28	1-27-1997	TSO, Table II
-	3-24-1997	TSO, Table II
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-	9-9-1997	TSO, Table II
31	1-14-1998	TSO, Table I
32	1-14-1998	TSO, Table I
33	1-14-1998	TSO, Table I
37	3-21-1998	TSO, Table I
34	3-31-1998	TSO, Table I
35	3-31-1998	TSO, Table I
39	5-21-1998	TSO, Table I
40	5-25-1998	TSO, Table I
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43	6-23-1998	TSO, Table I
44	6-23-1998	TSO, Table I
45	7-14-1998	TSO, Table I
46	8-11-1998	TSO, Table I

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-	9-8-1998	130.01 - 130.05, 130.99
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48	11-10-1998	TSO, Table I
49	11-10-1998	TSO, Table I
50	11-10-1998	TSO, Table I
51	11-10-1998	TSO, Table I
29	12-31-1998	TSO, Table I
30	1-31-1999	TSO, Table I
36	2-28-1999	TSO, Table I
-	3-9-1999	111.01 - 111.03, 111.15, 111.16, 111.18 - 111.24, 111.35 - 111.38, 111.50 - 111.59
-	6-8-1999	50.01
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53	6-8-1999	TSO, Table I
54	2-22-2000	TSO, Table I
55	4-11-2000	TSO, Table I
56	5-9-2000	TSO, Table I
-	6-13-2000	Ch. 72, Schedule I
57	6-13-2000	TSO, Table I
58	6-13-2000	TSO, Table I
59	6-13-2000	TSO, Table I
-	6-27-2000	113.01 - 113.09, 113.99
-	8-8-2000	Ch. 72, Schedule II
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61	8-8-2000	TSO, Table I
62	8-8-2000	TSO, Table I
63	8-8-2000	TSO, Table I
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67	12-12-2000	TSO, Table I
68	12-12-2000	TSO, Table I
69	12-12-2000	TSO, Table I
70	1-9-2001	TSO, Table I
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72	4-10-2001	TSO, Table I

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78	6-12-2001	TSO, Table I
79	6-26-2001	TSO, Table I
73	6-30-2001	TSO, Table I
74	6-30-2001	TSO, Table I
75	6-30-2001	TSO, Table I
80	11-13-2001	TSO, Table I
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81	11-30-2001	TSO, Table I
82	12-11-2001	TSO, Table I
83	12-11-2001	TSO, Table I
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89	3-12-2002	TSO, Table I
90	4-9-2002	TSO, Table I
87	4-30-2002	TSO, Table I
85	5-14-2002	TSO, Table I
91	5-14-2002	TSO, Table I
76	6-30-2002	TSO, Table I
93	7-9-2002	TSO, Table I
95	8-13-2002	TSO, Table I
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97	9-10-2002	TSO, Table I
103	9-10-2002	TSO, Table I
42	12-10-2002	114.01
44	2-11-2003	TSO, Table II
105	2-11-2003	TSO, Table I
88	2-28-2003	TSO, Table I
45	3-11-2003	70.03, 70.99
106	4-8-2003	TSO, Table I
43	6-10-2003	71.01, 71.99, Ch. 73, Schedule I
107	6-10-2003	TSO, Table I
46	6-24-2003	Ch. 73, Schedule I
98	6-30-2003	TSO, Table I
99	6-30-2003	TSO, Table I
100	6-30-2003	TSO, Table I
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109	11-11-2003	TSO, Table I

Ord. No.	*Date Passed*	*Code Section*
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110	11-15-2003	TSO, Table I
111	11-15-2003	TSO, Table I
112	12-9-2003	TSO, Table I
47	6-8-2004	110.04
48	7-13-2004	110.04
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