

CODE OF THE TOWN
of
GARNER, NORTH CAROLINA
Looseleaf Supplement

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

Ordinance No. (2024)5281, enacted July 16, 2024.

See the Code Comparative Table for further information.

Remove Old Pages

xiii—xv

Checklist of up-to-date pages

SH:3

591—622

2237

Insert New Pages

xiii—xv

Checklist of up-to-date pages
(following Table of Contents)

SH:3

591—623

2237, 2238

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Ordinance No. (2023)5217, enacted August 8, 2023.

See the Code Comparative Table for further information.

Remove Old Pages

xiii—xv

Checklist of up-to-date pages

SH:1, SH:2

597—602.1

653, 654

659—660.1

2237

2281, 2282

2287, 2288

2293—2298

Insert New Pages

xiii—xv

Checklist of up-to-date pages
(following Table of Contents)

SH:1—SH:3

597—602.1

653, 654

659—660.2

2237

2281, 2282

2287, 2288

2293—2298.1

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Ordinance No. (2023)5200, enacted May 16, 2023.

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Remove Old Pages

xiii—xv

Checklist of up-to-date pages

SH:1, SH:2

127

129—131

517

519—526

659—660.1

2237

2283, 2284

2301—2303

Insert New Pages

xiii—xv

Checklist of up-to-date pages
(following Table of Contents)

SH:1, SH:2

127

129, 130

517

519—527

659—660.1

2237

2283, 2284

2301—2303

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Ordinance No. (2022)5159, enacted December 5, 2022.

See the Code Comparative Table for further information.

Remove Old Pages

xiii—xv

Checklist of up-to-date pages

SH:1, SH:2

593—602

659, 660

715—717

2237

Insert New Pages

xiii—xv

Checklist of up-to-date pages
(following Table of Contents)

SH:1, SH:2

593—602.1

659—660.1

715—717

2237

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Ordinance No. (2022)5100, enacted February 7, 2022.

See the Code Comparative Table for further information.

Remove Old Pages

Title Page
xiii—xv
Checklist of up-to-date pages

SH:1, SH:2
77
181—195
237
239—242
295—299
351—355
403—412
517
519—526
585—586.1
587—617
653—666
937—941
993—1001
1047
1049—1091
1129
1131, 1132
1183—1190
1213—1216.1
2235, 2236
2281—2304

Insert New Pages

Title Page
xiii—xv
Checklist of up-to-date pages
(following Table of Contents)
SH:1, SH:2
77
181—196
237
239—242
295—299
351—355
403—413
517
519—526
585—587
589—622
653—667
937—941
993—1001
1047
1049—1061
1129
1131—1133
1183—1190
1213—1216.1
2235—2237
2281—2303

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Ordinance No. (2021)5011, enacted February 1, 2021.

See the Code Comparative Table for further information.

Remove Old Pages

xiii—xv

Checklist of up-to-date pages

SH:1, SH:2

179—198

589—600.1

659, 660

2235, 2236

2281—2282.1

2287, 2288

2293, 2294

Insert New Pages

xiii—xv

Checklist of up-to-date pages
(following Table of Contents)

SH:1, SH:2

179—195

589—600.2

659, 660

2235, 2236

2281, 2282

2287, 2288

2293, 2294

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Ordinance No. (2019)4024, enacted November 4, 2019.

See the Code Comparative Table for further information.

Remove Old Pages

Checklist of up-to-date pages

SH:1, SH:2
347—350.1
591—598.1
605, 606
935
939—941
1215, 1216
2235, 2236
2285—2288
2293, 2294
2303, 2304

Insert New Pages

Checklist of up-to-date pages
(following Table of Contents)

SH:1, SH:2
347—350.1
591—598.1
605—606.1
935, 936
939—941
1215—1216.1
2235, 2236
2285—2288
2293, 2294
2303, 2304

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Ordinance No. (2019)3978, enacted June 18, 2019.

See the Code Comparative Table for further information.

Remove Old Pages

xiii—xv

Checklist of up-to-date pages

SH:1, SH:2

585

589—598.1

2235, 2236

Insert New Pages

xiii—xv

Checklist of up-to-date pages
(following Table of Contents)

SH:1, SH:2

585—586.1

589—598.1

2235, 2236

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Ordinance No. 3884, enacted September 17, 2017.

See the Code Comparative Table for further information.

Remove Old Pages

xiii—xv

Checklist of up-to-date pages

SH:1, SH:2

1047

1051—1054

2235, 2236

2303, 2304

Insert New Pages

xiii—xv

Checklist of up-to-date pages
(following Table of Contents)

SH:1, SH:2

1047

1051—1053

2235, 2236

2303, 2304

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Ordinance No. 3868, enacted August 7, 2017.

See the Code Comparative Table for further information.

Remove Old Pages

xiii—xv

Checklist of up-to-date pages

SH:1

237

241, 242

655—660.1

2235

2285—2288

Insert New Pages

xiii—xv

Checklist of up-to-date pages
(following Table of Contents)

SH:1, SH:2

237

241, 242

655—660.1

2235, 2236

2285—2288

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Ordinance No. 3833, enacted November 22, 2016.

See the Code Comparative Table for further information.

Remove Old Pages

Title page
xiii—xv
Checklist of up-to-date pages
SH:1
131
181—184
191—197
653
659, 660
2235
2281, 2282
2293, 2294

Insert New Pages

Title page
xiii—xv
Checklist of up-to-date pages
(following Table of Contents)
SH:1
131
179—183
191—198
653, 654
659—660.1
2235
2281—2282.1
2293, 2294

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Ordinance No. 3792, enacted October 20, 2015.

See the Code Comparative Table for further information.

Remove Old Pages

xiii—xv
Checklist of up-to-date pages
SH:1
517—526

991—1001
2235
2283—2288
2297—2304

Insert New Pages

xiii—xv
Checklist of up-to-date pages
(following Table of Contents)
SH:1
517
519—526
991—1001
2235
2283—2288
2297—2304

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Ordinance No. 3779, enacted July 7, 2015.

See the Code Comparative Table for further information.

Remove Old Pages

xiii—xv

Checklist of up-to-date pages

SH:1

181, 182

187, 188

349—350.1

517—522.2

605—608.1

2233—2235

2281—2288

2293, 2294

2299—2304

Insert New Pages

xiii—xv

Checklist of up-to-date pages
(following Table of Contents)

SH:1

181, 182

187, 188

349—350.1

517

519—522

605—608.1

2233—2235

2281—2288

2293, 2294

2299—2304

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Ordinance No. 3753, enacted December 1, 2014.

See the Code Comparative Table for further information.

Remove Old Pages

xiii—xv
Checklist of up-to-date pages
SH:1
181—196
349, 350
517
522.3—534
605—608
2235
2281—2288
2301—2304

Insert New Pages

xiii—xv
Checklist of up-to-date pages
(following Table of Contents)
SH:1
181—197
349—350.1
517
523—526
605—608.1
2235
2281—2288
2301—2304

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Ordinance No. 3716, enacted November 19, 2013.

See the Code Comparative Table for further information.

Remove Old Pages

xiii—xv
Checklist of up-to-date pages
SH:1
127—131

237—243

401—413

463—467
713—717

767—779
827—830

1047—1086

1181—1196

1697—1718
2233, 2234
2281—2310

Insert New Pages

xiii—xv
Checklist of up-to-date pages
(following Table of Contents)
SH:1
127
129—131
237
239—242
401
403—412
463
713
715—717
767
827
829
1047
1049—1058
1181
1183—1190
1697
2233—2235
2281—2304

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Ordinance No. 3700, enacted July 16, 2013.

See the Code Comparative Table for further information.

Remove Old Pages

Title page
Checklist of up-to-date pages

SH:1
599—600.1
607, 608
2233, 2234

Insert New Pages

Title page
Checklist of up-to-date pages
(following Table of Contents)
SH:1
599—600.1
607, 608
2233, 2234

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Ordinance No. 3680, enacted December 3, 2012.

See the Code Comparative Table for further information.

Remove Old Pages

Checklist of up-to-date pages

SH:1

347

349—353

521, 522

607, 608

2233, 2234

2291—2300

2309, 2310

Insert New Pages

Checklist of up-to-date pages
(following Table of Contents)

SH:1

347

349—355

521—522.4

607, 608

2233, 2234

2291—2300.1

2309, 2310

Insert and maintain this instruction sheet in front of this publication. File removed pages for reference.



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SUPPLEMENT NO. 32
August 2012

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Ordinance No. 3655, enacted February 12, 2012.

See the Code Comparative Table for further information.

Remove Old Pages

Checklist of up-to-date pages

SH:1

599, 600

2233, 2234

Insert New Pages

Checklist of up-to-date pages
(following Table of Contents)

SH:1

599—600.1

2233, 2234

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Ordinance No. 3647, enacted December 20, 2011.

See the Code Comparative Table for further information.

Remove Old Pages

xiii—xv
Checklist of up-to-date pages

181—194
241—243
593—600
1131, 1132
2233
2281—2284

Insert New Pages

xiii—xv
Checklist of up-to-date pages
(following Table of Contents)
SH:1(following Table of Contents)
181—196
241—243
593—600
1131, 1132
2233, 2234
2281—2284

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Ordinance No. 3580, adopted May 3, 2010.

See the Code Comparative Table for further information.

Remove Old Pages

Checklist of up-to-date pages

351—353

659, 660

2233

2297, 2298

2308.1—2310

Insert New Pages

Checklist of up-to-date pages
(following Table of Contents)

351—353

659, 660

2233

2297, 2298

2309, 2310

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Ordinance No. 3564, adopted September 8, 2009.

See the Code Comparative Table for further information.

Included in the Charter is:

Ordinance No. 3545, adopted February 17, 2009.

See the Charter Comparative Table for further information.

Remove old pages

xiii—xv
Checklist of up-to-date pages

1
3—9
59
75—77
127
129, 130
183, 184
191—194
239—242
297, 298
349—352
408.1—413
465, 466
519—534
593—616
655—666
715—717
767
769—779
829, 830
883, 884
937—941
993—1001
1049, 1050
1063, 1064
1070.5, 1070.6
1070.9, 1070.10

Insert new pages

xiii—xv
Checklist of up-to-date pages
(following Table of Contents)

1
3—9
59
75—77
127
129—131
183, 184
191—194
239—242
297, 298
349—352
409—413
465—467
519—534
593—617
655—666
715—717
767
769—779
829, 830
883, 884
937—941
993—1001
1049, 1050
1063—1064.1
1070.5, 1070.6
1070.9, 1070.10

INSTRUCTION SHEET—Cont'd.

Remove old pages

1073—1091
1131, 1132
1183, 1184
1187—1194
1221, 1222
1699—1716
2233
2277—2279
2281—2288
2299, 2300
2305—2308

Insert new pages

1073—1091
1131, 1132
1183, 1184
1187—1194.1
1221, 1222
1699—1718
2233
2277—2279
2281—2288
2299, 2300
2305—2308.1

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Ordinance No. 3541, adopted January 5, 2009.

See the Code Comparative Table for further information.

Remove old pages

Checklist of up-to-date pages

593—598
607—608.1
767
769—779
2233
2281, 2282
2285—2290
2293, 2294
2297—2302

Insert new pages

Checklist of up-to-date pages
(following Table of Contents)

593—598.1
607—608.1
767
769—779
2233
2281, 2282
2285—2290
2293, 2294
2297—2302

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CODE OF THE TOWN
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CHARTER AND ORDINANCES OF THE TOWN

Original Publication 1973

Republication 1989

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AT THE TIME OF ORIGINAL CODIFICATION

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Mayor

James R. Stevens
A. P. Barefoot
H. Sherwood Johnson
John W. Watkins, Jr.
Nathan H. Yelton
Aldermen

Gustav M. Ulrich
Town Manager

G. Earl Weaver
Town Attorney

Mary Lou Heath
Town Clerk

OFFICIALS
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AT THE TIME OF 1989 REPUBLICATION

Joe G. Creech
Mayor

Michael Adams
Wayne Britt
Steven Grodensky
Don Rohrbaugh
Ronnie Williams
Aldermen

Bill Anderson
Town Attorney

Mary Lou Rand
Town Clerk

PREFACE

This Code, consisting of Part I, General Ordinances, and Part II, Technical Ordinances, is a revision and codification of the general and permanent ordinances of the Town of Garner. For the convenience of the user, the Charter is also included herein.

As expressed in the Adopting Ordinance, the Code supersedes all ordinances not included herein or expressly saved from repeal. It should be noted, however, that the Code contains only general and permanent ordinances and does not include, nor does it affect, special or temporary ordinances. Also, for various reasons, it was felt advisable to omit and save from repeal certain general and permanent ordinances. For an enumeration of the type of ordinances which are not included herein, see Section 3 of the Adopting Ordinance.

The Code is conveniently arranged in alphabetical order and the various sections within each chapter have been appropriately catchlined to facilitate usage. Attention is also directed to the footnotes which tie related sections of the Code together and which contain references to relevant provisions of the Charter and general state law. The source of each section is included in the history note in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code.

The numbering system used in this Code is the same system used in many state and municipal codes. Each section number consists of two component parts separated by a dash, the figure before the dash referring to the chapter number and the figure after the dash referring to the position of the section within the chapter. Thus, the first section of Chapter 1 is numbered 1-1 and the fourteenth section of Chapter 11 is 11-14. Under this system, each section is identified with its chapter and at the same time new sections can be inserted in their proper places simply by using the decimal system for amendments. By way of illustration: If new material consisting of three sections that would logically come between Sections 4-4 and 4-5 is desired to be added, such new sections would be numbered 4-4.1, 4-4.2 and 4-4.3, respectively. Sections have been reserved at the end of articles and divisions to provide for future expansion. New chapters may also be included by the use of the decimal system. Thus, if the new material is to be included between Chapters 12 and 13, it will be designated as Chapter 12.1, 12.2, 12.3. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters. New articles and new divisions may be included in the same way, or in the case of articles, may be placed at the end of the chapter embracing the subject, and in the case of divisions, may be placed at the end of the article embracing the subject, the next successive number being assigned to the article or division.

A special feature of this Code of which the attention of the user is especially directed is the innovation of the looseleaf system of binding and supplemental servicing for the Code. With this new looseleaf system, the Code will be kept up-to-date periodically. Upon the final passage of amendatory ordinances, they will be properly edited and the appropriate page or pages affected will be reprinted. These new pages will be distributed to the holders of

the Codes with instructions for the manner of inserting the new pages and deleting the obsolete pages. Each such subsequent amendment, when incorporated into this Code, may be cited as a part hereof as provided in Section 5 of the Adopting Ordinance.

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

The indices of the Charter and Code have been prepared with the greatest of care. Each particular item has been placed under several headings, some of the headings being couched in lay phraseology, others in legal terminology, and still others in language used by city officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which he is interested.

The publishers are most grateful to all city officials and employees for their supervision, cooperation and interest during the preparation of this Code. Special appreciation is due Mr. Gustav M. Ulrich, Town Manager and Mr. Earl Weaver, Town Attorney.

The original publication of this Code was under direct supervision of George R. Langford, President, and Herbert Dewees, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The 1988 republication of this Code was under the direct supervision of Robert L. Laslie, Vice-President Supplements and James Thompson, Supplement Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

This Code is presented for the use and benefit of the citizens of the Town of Garner.

MUNICIPAL CODE CORPORATION
Tallahassee, Florida

ADOPTING ORDINANCE (1973) 1345

An Ordinance Adopting and Enacting a Code of the Town of Garner, North Carolina; Establishing the Same; Providing for the Repeal of Certain Ordinances Not Included Therein, Except as Herein Expressly Provided; Providing for the Effective Date of Such Code and a Penalty for the Violation Thereof; and Providing for the Manner of Amending Such Code; and Providing When This Ordinance Shall Become Effective.

Be It Ordained by the Board of Aldermen of the Town of Garner:

Section 1. That the Code of Ordinances, consisting of Chapters 1 to 19, each inclusive, is hereby adopted and enacted as the "Code of the Town of Garner, North Carolina." Such Code shall be treated and considered as a new and original comprehensive ordinance which shall supersede all other general and permanent ordinances passed by the Board of Aldermen on or before April 2, 1973, to the extent provided in Section 2 hereof.

Section 2. That all provisions of such Code shall be in full force and effect from and after October 18, 1973, and all ordinances of a general and permanent nature enacted on or before April 2, 1973, and not included in such Code or recognized and continued in force by reference therein are hereby repealed from and after October 18, 1973, except as hereinafter provided.

Section 3. That the repeal provided for in Section 2 hereof shall not affect any of the following:

- (a) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of such Code;
- (b) Any ordinance promising or guaranteeing the payment of money for the Town or authorizing the issuance of any bonds of the Town or any evidence of the Town's indebtedness;
- (c) Any contract or obligation assumed by the Town;
- (d) Any ordinance fixing the salary of any Town officer or employee;
- (e) Any right or franchise granted by the Town;
- (f) Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening, paving, etc., any street or public way in the Town;
- (g) Any appropriation ordinance;
- (h) Any ordinance which, by its own terms, is effective only for a stated or limited time;
- (i) Any ordinance providing for local improvements and assessing taxes therefor;
- (j) Any subdivision ordinance;
- (k) Any zoning ordinance;
- (l) Any ordinance describing or extending the boundaries of the Town;

- (m) Any ordinance or resolution designating one-way streets, stop or yield right-of-way intersections, intersections at which traffic-control signals are to be installed, parking meter zones or spaces, areas or spaces in which the parking of vehicles is prohibited or limited, intersections at which the turning of vehicles is prohibited, or restricted or regulated, or any other ordinance regulating traffic or the operation, stopping, parking or standing of vehicles on specific streets or portions thereof or in specific areas of the Town;
- (n) Any ordinance enacted after April 2, 1973.

Section 4. It shall be unlawful and constitute a misdemeanor for any person to violate any of the provisions of this Code or of the ordinances of the town.

Where no specific penalty is provided in any provision of this Code or in any ordinance of the town, each person convicted for the violation of any such provision may be punished by a fine of not more than fifty dollars (\$50.00), or by imprisonment for not more than thirty (30) days.

In addition to all other punishment herein provided for, any person found guilty of violating any of the ordinances, or provisions thereof, of the town may be required to pay the court costs, or any portion thereof, in the discretion of the court.

Unless otherwise expressly provided, each day's violation of a provision of this Code or other ordinances of the town shall constitute a separate offense.

Section 5. That any and all additions and amendments to such Code, when passed in such form as to indicate the intention of the Board of Aldermen to make the same a part thereof, shall be deemed to be incorporated in such Code so that reference to the Code of the Town of Garner, North Carolina, shall be understood and intended to include such additions and amendments.

Section 6. That in case of the amendment of any section of such Code for which a penalty is not provided, the general penalty as provided in Section 4 of this ordinance and Section 1-8 of such Code shall apply to the section as amended; or in case such amendment contains provisions for which a penalty, other than the aforementioned general penalty, is provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.

Section 7. That a copy of such Code shall be kept on file in the office of the Town Clerk preserved in looseleaf form or in such other form as the Board of Aldermen may consider most expedient. It shall be the express duty of the Town Clerk, or someone authorized by the Clerk, to insert in their designated places all amendments or ordinances which indicate the intention of the Board of Aldermen to make the same a part of such Code when the same have been printed or reprinted in page form, and to extract from such Code all provisions which may be from time to time repealed by the Board of Aldermen. This copy of such Code shall be available for all persons desiring to examine the same.

Section 8. That all ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 9. That this ordinance shall become effective on the 18th day of October, 1973.

Duly adopted at a regular meeting of the BOARD OF ALDERMEN OF THE
TOWN OF GARNER on the 18th day of September, 1973.

/s/ James R. Stevens
Mayor Pro Tem

ATTEST:
/s/ Mary Lou Heath
Town Clerk

TABLE OF CONTENTS

	Page
Officials of Town at Time of Original Codification	iii
Officials of Town at Time of 1989 Republication.....	v
Preface	vii
Ordinance Adopting Code.....	ix
Checklist of Up-to-Date Pages	[1]
Supplement History Table	SH:1

CHARTER

Charter	1
Art. I. Incorporation, Corporate Powers and Boundaries	3
Art. II. Mayor and Town Council	3
Art. III. Elections	4
Art. IV. Organization and Administration.....	4
Art. V. Public Improvements	6
Art. VI. Special Provisions.....	9
Charter Comparative Table.....	59

PART I

GENERAL ORDINANCES

Chapter	
1. General Provisions	73
2. Administration.....	127
Art. I. In General	129
Art. II. Town Council.....	129
3. Animals and Fowl.....	179
Art. I. In General	181
Art. II. Rabies Control.....	193
Art. III. Impoundment	195
4. Fire Prevention and Protection.....	237
Art. I. In General	239
Art. II. Fire Department.....	241
Art. III. Hazardous Materials Data Storage Boxes ...	241
5. Garbage, Refuse, Rubbish and Waste	291
6. Health and Sanitation Generally	347
Art. I. In General	349
Art. II. Noxious Weeds and Grass and Similar Nuisances	349

GARNER CODE

Chapter	Page
7. Minimum Housing	401
8. Reserved.....	463
9. Licenses and Business Regulations Generally.....	517
Art. I. In General	519
Art. II. Business Registration Program	519
Art. III. Peddlers, Solicitors, Hawkers, Itinerant Merchants and Vendors	520
Art. IV. Cable Television Systems	525
10. Motor Vehicles and Traffic.....	585
Art. I. In General	589
Art. II. Licensing of Motor Vehicles	590
Art. III. Operation	591
Art. IV. Stopping, Standing and Parking.....	608
Art. V. Junked and Abandoned Motor Vehicles	617
11. Offenses—Miscellaneous Provisions	653
Art. I. In General	655
Art. II. State of Emergency Provisions.....	662
Art. III. Graffiti.....	665
12. Parks and Recreation.....	713
Art. I. In General	715
Art. II. Administration	715
13. Reserved	767
13.1 Planning	827
14. Police.....	881
Art. I. In General	883
Art. II. Police Department	883
Div. 1. Generally	883
Div. 2. Auxiliary Policemen	884
15. Streets and Sidewalks	935
Art. I. In General	937
Art. II. Excavations and Obstructions Generally	937
Art. III. Sight Obstructions at Intersections	937
Art. IV. Improvements.....	938
Art. V. Sidewalk Construction.....	938
Art. VI. Standards and Specifications	938
Art. VII. Parades, Picket Lines and Demonstrations..	939
16. Vehicles for Hire	991
Art. I. In General	993
Art. II. Taxicabs	993
Div. 1. Generally	993
Div. 2. Taxicab Company Authorization.....	997
Div. 3. Taxicab Driver's License	999
17. Water and Sewers.....	1047
Art. I. In General	1049

TABLE OF CONTENTS—Cont'd.

Chapter	Page
Art. II. Rates and Charges.....	1051
Art. III. Use of Sanitary Sewer System.....	1052
Art. IV. Extending Water and Sewer Mains.....	1053
Art. V. Protection of Public Water Supply.....	1055
Art. VI. Stormwater Drainage.....	1056
18. Weapons and Explosives.....	1129
Art. I. In General.....	1131
Art. II. Fireworks.....	1132
PART II	
TECHNICAL ORDINANCES	
19. Buildings and Building Regulations.....	1183
Art. I. In General.....	1185
Art. II. Buildings.....	1185
Div. 1. Generally.....	1185
Div. 2. Unsafe Buildings.....	1185
Div. 3. Reserved.....	1188
Art. III. Reserved.....	1188
Art. IV. Reserved.....	1188
Art. V. Reserved.....	1188
Art. VI. Reserved.....	1188
Art. VII. Erosion and Sedimentation Control.....	1189
Art. VIII. Rights-of-Way.....	1215
Appendix A. Reserved.....	1697
Code Comparative Table.....	2217
Charter Index.....	2277
Code Index.....	2281

Checklist of Up-to-Date Pages

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

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

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

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

In addition to assisting existing holders of the Code, this list may be used in compiling an up-to-date copy from the original Code and subsequent Supplements.

Page No.	Supp. No.	Page No.	Supp. No.
Title Page	46	129, 130	48
iii	OC	179, 180	45
v	OC	181, 182	46
vii, viii	OC	183, 184	46
ix, x	OC	185, 186	46
xi	OC	187, 188	46
xiii, xiv	50	189, 190	46
xv	50	191, 192	46
SH:1, SH:2	49	193, 194	46
SH:3	50	195, 196	46
1	29	237	46
3, 4	29	239, 240	46
5, 6	29	241, 242	46
7, 8	29	291	6
9	29	293, 294	15
59	29	295, 296	46
71	OC	297, 298	46
73	OC	299	46
75, 76	29	347	44
77	46	349, 350	44
127	48	350.1	44

GARNER CODE

Page No.	Supp. No.	Page No.	Supp. No.
351, 352	46	655, 656	46
353, 354	46	657, 658	46
355	46	659, 660	49
401	36	660.1, 660.2	49
403, 404	46	661, 662	46
405, 406	46	663, 664	46
407, 408	46	665, 666	46
409, 410	46	667	46
411, 412	46	713	36
413	46	715, 716	47
463	36	717	47
517	48	767	36
519, 520	48	827	36
521, 522	48	829	36
523, 524	48	881	OC
525, 526	48	883, 884	29
527	48	935, 936	44
585, 586	46	937, 938	46
587	46	939, 940	46
589, 590	46	941	46
591, 592	50	991, 992	39
593, 594	50	993, 994	46
595, 596	50	995, 996	46
597, 598	50	997, 998	46
599, 600	50	999, 1000	46
601, 602	50	1001	46
603, 604	50	1047	46
605, 606	50	1049, 1050	46
607, 608	50	1051, 1052	46
609, 610	50	1053, 1054	46
611, 612	50	1055, 1056	46
613, 614	50	1057, 1058	46
615, 616	50	1059, 1060	46
617, 618	50	1061	46
619, 620	50	1129	46
621, 622	50	1131, 1132	46
623	50	1133	46
653, 654	49	PART II	

CHECKLIST OF UP-TO-DATE PAGES

Page No.	Supp. No.	Page No.	Supp. No.
1181	36	2291, 2292	46
1183, 1184	46	2293, 2294	49
1185, 1186	46	2295, 2296	49
1187, 1188	46	2297, 2298	49
1189, 1190	46	2298.1	49
1197, 1198	27	2299, 2300	46
1199, 1200	27	2301, 2302	48
1201, 1202	27	2303	48
1203, 1204	27		
1205, 1206	27		
1207, 1208	27		
1209, 1210	27		
1211, 1212	27		
1213, 1214	46		
1215, 1216	46		
1216.1	46		
1217, 1218	27		
1219, 1220	27		
1221, 1222	29		
1697	36		
2217, 2218	OC		
2219, 2220	OC		
2221, 2222	OC		
2223, 2224	OC		
2225, 2226	OC		
2227, 2228	7		
2229, 2230	14		
2231, 2232	24		
2233, 2234	38		
2235, 2236	46		
2237, 2238	50		
2277, 2278	29		
2279	29		
2281, 2282	49		
2283, 2284	48		
2285, 2286	46		
2287, 2288	49		
2289, 2290	46		

SUPPLEMENT HISTORY TABLE

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

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

Ord. No.	Date Adopted	Included/ Omitted	Supp. No.
3598	9-21-10	Included	31
3612	3- 7-11	Included	31
3614	3-22-11	Included	31
3630	8- 1-11	Included	31
3638	11-22-11	Included	31
3646	12-20-11	Included	31
3647	12-20-11	Included	31
3655	2-12-12	Included	32
3657	3- 5-12	Included	33
3669	9- 4-12	Included	33
3680	12- 3-12	Included	33
3691	4-16-13	Included	34
3700	7-16-13	Included	34
3705	9- 3-13	Included	35
3707	9- 3-13	Included	35
3710	9-17-13	Included	35
3716	11-19-13	Included	36
3738	6- 2-14	Included	37
3741	7-22-14	Included	37
3747	10- 6-14	Included	37
3753	12- 1-14	Included	37
3589	7-20-10	Included	38
3776	7- 7-15	Included	38
3779	7- 7-15	Included	38
3788	10- 5-15	Included	39
3792	10-20-15	Included	39
3816	6- 6-16	Included	40
3833	11-22-16	Included	40
3815	5-17-16	Included	41

GARNER CODE

Ord. No.	Date Adopted	Included/ Omitted	Supp. No.
3824	8- 1-16	Included	41
3868	8- 7-17	Included	41
3884	9-17-17	Included	42
3954	3-19-19	Included	43
3978	6-18-19	Included	43
3995	9- 3-19	Included	44
3997	9-17-19	Included	44
4000	9-17-19	Included	44
4008	10- 7-19	Included	44
4010	10-24-19	Included	44
4011	10-24-19	Included	44
4012	10-24-19	Included	44
4024	11- 4-19	Included	44
4044	3- 2-20	Included	45
4045	3- 2-20	Included	45
4098	12-22-20	Included	45
5000	1- 4-21	Included	45
5001	1- 4-21	Included	45
5002	1- 4-21	Included	45
5003	1- 4-21	Included	45
5008	1-19-21	Included	45
5011	2- 1-21	Included	45
2456	7- 6-21	Included	46
5027	4-20-21	Included	46
5062	9-21-21	Included	46
5076	11- 1-21	Included	46
5077	11- 1-21	Included	46
5078	11- 1-21	Included	46
5079	11- 1-21	Included	46
5080	11- 1-21	Included	46
5081	11- 1-21	Included	46
5091	1- 3-22	Included	46
5092	1- 3-22	Included	46
5100	2- 7-22	Included	46
5134	7-19-22	Included	47
5111	8- 1-22	Included	47
5147	10- 3-22	Included	47
5158	12- 5-22	Included	47
5159	12- 5-22	Included	47
5183	2-21-23	Included	48
5198	5-16-23	Included	48
5200	5-16-23	Included	48
5151	11- 7-22	Included	48
5162	12- 5-22	Included	49
5181	2- 6-23	Included	49
5185	3- 6-23	Included	49

SUPPLEMENT HISTORY TABLE—Cont'd

Ord. No.	Date Adopted	Included/ Omitted	Supp. No.
5217	8- 8-23	Included	49
5265	5- 7-24	Included	50
5266	5- 7-24	Included	50
5272	6-18-24	Included	50
5273	6-18-24	Included	50
5277	6-18-24	Included	50
5281	7-16-24	Included	50

CHARTER*

Art. I.	Incorporation, Corporate Powers and Boundaries, §§ 1.1—1.3
Art. II.	Mayor and Town Council, §§ 2.1—2.8
Art. III.	Elections, §§ 3.1—3.3
Art. IV.	Organizations and Administration, §§ 4.1—4.8
Art. V.	Public Improvements, §§ 5.1—5.7
Art. VI.	Special Provisions, §§ 6.1—6.7

***Editor's note**—The Charter of the Town of Garner was revised and consolidated pursuant to Chapter 333 of the Session Laws of 1977. The Charter as included herein is as set forth in § 1 of said Chapter 333, except for correction of any obvious errors in spelling, etc. Words appearing in brackets have been added by the editor for purposes of clarification.

Sections 2—11 of Chapter 333 of the Session Laws of 1977 provide as follows:

"Sec. 2. The purpose of this act is to revise the Charter of the Town of Garner 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.

"Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such 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 Garner;
- (b) any acts validating, conforming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

"Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are hereby repealed:

Private Laws 1905, Chapter 358	Session Laws 1953, Chapter 247	Session Laws 1963, Chapter 197
Private Laws 1907, Chapter 197	Session Laws 1955, Chapter 459	Session Laws 1963, Chapter 902
Private Laws 1933, Chapter 153	Session Laws 1957, Chapter 633	Session Laws 1967, Chapter 576
Public-Local Laws 1937, Chapter 620	Session Laws 1959, Chapter 307	Session Laws 1967, Chapter 597
Session Laws 1953, Chapter 210	Session Laws 1961, Chapter 664	Session Laws 1969, Chapter 393

"Sec. 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 pursuant to or within the scope of any provisions of law repealed by this act.

"Sec. 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.

"Sec. 7.

- (a) All existing ordinances and resolutions of the Town of Garner and all existing rules or regulations of departments or agencies of the Town of Garner, 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 Garner or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

"Sec. 8. 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.

"Sec. 9. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

"Sec. 10. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

"Sec. 11. This act shall become effective upon ratification."

THE CHARTER OF THE TOWN OF GARNER

ARTICLE I. INCORPORATION, CORPORATE POWERS AND BOUNDARIES

Section 1.1. Incorporation.

The Town of Garner, North Carolina in the County of Wake, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the "Town of Garner", hereinafter at times referred to as the "town."

Section 1.2. Powers.

The Town of Garner shall have and may exercise all of the powers, duties, rights, privileges and immunities which are now or hereafter may be conferred, either expressly or by implication, upon the Town of Garner specifically or upon municipal corporations generally by this Charter, by the state constitution, or by general or local law.

Section 1.3. Corporate limits.

The corporate limits of the Town of Garner shall be those existing at the time of ratification of this Charter, as the same are now or hereafter may be constituted pursuant to law. An official map or description of the town, showing the current town boundaries, shall be maintained permanently in the office of the town clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map or description of the town shall be made.

ARTICLE II. MAYOR AND TOWN COUNCIL

Section 2.1. Governing body.

The mayor and town council, elected and constituted as herein set forth, shall be the governing body of the town. On behalf of the town, and in conformity with applicable laws, the mayor and

council may provide for the exercise of all municipal powers, and shall be charged with the general government of the town.

Section 2.2. Mayor; term of office; duties[; right to vote].

The mayor shall be elected by and from the qualified voters of the town for a term of four (4) years, in the manner provided by Article III of this Charter; provided, the mayor shall serve until his successor is elected and qualified. The mayor shall be the official head of the town government, shall preside at all meetings of the town council, and shall have the powers and duties of mayor as prescribed by this Charter and the General Statutes. The mayor shall have the right to vote on matters before the council only where there is an equal number of votes in the affirmative and in the negative.
(Ord. No. 3389, § 1, 8-16-05)

Section 2.3. Town council; terms of office.

The town council shall be composed of five (5) members, each of whom shall be elected for terms of four (4) years, in the manner provided by Article III of this Charter; provided, council members shall serve until their successors are elected and qualified.

(Ord. No. 1734, § 1, 8-18-81)

Note—See the editor's note following § 3.3.

Section 2.4. Mayor pro tempore.

In accordance with applicable state laws, the town council shall appoint one (1) of its members to act as mayor pro tempore to 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 2.5. Meetings of the council.

In accordance with applicable state laws, the council shall establish a suitable time and place for its regular meetings. Special meetings may be held according to applicable provisions of the General Statutes.

Section 2.6. Ordinances and resolutions.

The adoption, amendment, repeal, pleading, or proving of town ordinances and resolutions shall be in accordance with applicable provisions of the General Statutes of North Carolina not inconsistent with this Charter. Except as otherwise provided by law, all ordinances shall become effective upon adoption; provided, an ordinance may, by its own terms, specify some other time upon which it shall take effect. The enacting clause of all town ordinances shall be: "Be it ordained by the town council of the Town of Garner."

Section 2.7. Voting requirements; quorum; emergency measures.

Official action of the council shall, except as otherwise provided by law, be by majority vote, provided that a quorum, consisting of a majority of the actual membership of the council, is present. Vacant seats are to be subtracted from the normal council membership to determine the actual membership.

An affirmative vote of at least four-fifths of the actual membership of the council shall be necessary to pass or adopt any emergency measure. An emergency measure, for the purposes of this section, shall be defined as an ordinance or resolution to provide for the immediate preservation of the public peace, property, health or safety, and one in which an emergency situation is set forth and defined in a preamble thereto. It is the intention of the town that no situation shall be declared an emergency by the council except under a strict application of the provisions of this section.

Section 2.8. Qualifications for office; vacancies; compensation.

The compensation of council members, the filling of vacancies on the council, and the qualifications of council members shall be in accordance with applicable provisions of the General Statutes.

ARTICLE III. ELECTIONS

Section 3.1. Regular municipal elections; conduct.

Regular municipal elections shall be held in the town every two (2) years in odd-numbered

years, and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The mayor and members of the council shall be elected according to the nonpartisan plurality election method.

Section 3.2. Election of the mayor.

At the regular municipal election in 2007 and every four (4) years thereafter, there shall be elected a mayor to serve a term of four (4) years. The mayor shall be elected by the qualified voters of the town voting at large.
(Ord. No. 3486, § 1, 9-18-07)

Section 3.3. Election of council members.

The members of the town council shall hereafter be elected for four-year terms on a staggered basis as follows: At the regular municipal election to be held in 1983, the three (3) candidates who receive the highest number of votes shall be elected for four-year terms, while the two (2) candidates who receive the next highest number of votes shall be elected for two-year terms. Beginning at the regular municipal election to be held in 1985, and every four (4) years thereafter, two (2) members of the town council shall be elected to serve for four-year terms. Beginning at the regular municipal election to be held in 1987, and every four (4) years thereafter, three (3) members of the town council shall be elected to serve for four-year terms.
(Ord. No. 1734, § 1, 8-18-81)

Editor's note—At the discretion of the editor, provisions deriving from Ord. No. 1734, § 1, adopted Aug. 18, 1981, implementing four-year staggered terms for the members of the town council, have been codified in lieu of former § 3.3 relative to the election of council members every two years. In addition, § 2.3 has been changed by the editor to provide that members shall be elected for terms of four years.

ARTICLE IV. ORGANIZATION AND ADMINISTRATION

Section 4.1. Form of government.

The town shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

Section 4.2. Town manager.

The town council shall appoint a town manager who shall be the administrative head of town government, and who shall be responsible to the council for the proper administration of the affairs of the town. The town manager shall hold office at the pleasure of the town council, and shall receive such compensation as the council shall determine. In exercising his duties as chief administrator, the manager shall:

- A. Appoint and suspend or remove all town officers and employees not elected by the people, except the town attorney and those whose appointment or removal is otherwise provided for by law, in accordance with such general personnel rules, regulations, policies or ordinances as the council may adopt.
- B. Report to the town council each appointment or removal of an officer or employee at the next council meeting following such appointment or removal.
- C. Direct and supervise the administration of all departments, offices, and agencies of the town, subject to the general direction and control of the council, except as otherwise provided by law.
- D. Attend all meetings of the council, unless excused therefrom, and recommend any measures that he deems expedient.
- E. Prepare and submit the annual budget and capital program to the council.
- F. Keep the council fully advised as to the financial condition of the town and annually submit to the council, and make available to the public, a complete report on the finances and administrative activities of the town at the end of the fiscal year.
- G. Make any other reports that the council may require concerning the operation of the town departments, offices and agencies subject to his direction and control.
- H. Perform any other duties that may be required or authorized by the council, or as required by law.

Section 4.3. Town attorney.

The town council shall appoint a town attorney who shall be licensed to engage in the practice of law in the State of North Carolina. Upon request by the town council, it shall be the duty of the town attorney to defend suits against the town; to advise the mayor, town council and other town officials with respect to the affairs of the town; to draft legal documents relating to the affairs of the town; to inspect and pass upon agreements, contracts, franchises and other instruments with which the town may be concerned; to attend meetings of the town council, and to perform other duties as the council may direct.

Section 4.4. Town clerk.

The town manager shall appoint a town clerk to keep a journal of the proceedings of the council, 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 town council may direct.

Section 4.5. Town finance officer.

The town manager shall appoint a town finance officer to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

Section 4.6. Town tax collector.

The town manager shall appoint a town tax collector to collect all taxes, licenses, fees and other revenues accruing to the town, subject to the General Statutes, the provisions of this charter and the ordinances of the town. The town tax collector shall diligently comply with and enforce all the laws of North Carolina relating to the collection of taxes and other revenues by municipalities.

Section 4.7. Consolidation of functions.

The town council may provide for the consolidation of any two (2) or more positions of town manager, town clerk, town tax collector and town finance officer, or may assign the functions of any one or more of these positions to the holder or

holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

Section 4.8. Other administrative officers and employees.

Consistent with applicable state laws, the town council may establish other positions, provide for the appointment of other administrative officers and employees, and generally organize the town government in order to promote the orderly and efficient administration of the affairs of the town.

ARTICLE V. PUBLIC IMPROVEMENTS

Section 5.1. Assessments for street and sidewalk improvements; petition unnecessary.

A. In addition to any authority which is now or hereafter may be granted by general law to the town for making street improvements, the town council is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this section.

B. The town council may order street improvements and assess the cost thereof against the abutting property owners, exclusive of the costs incurred at street intersections, according to one (1) or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes without the necessity of a petition, upon the finding by the council as a fact:

- (1) That the street improvement project does not exceed two thousand (2,000) linear feet; and
- (2) That such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvements; or
- (3) That it is in the public interest to connect two (2) streets, or portions of a street already improved; or
- (4) That it is in the public interest to widen a street, or part thereof, which is already improved;

provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such streets in accordance with the street classification and improvement standards established by the town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this article.

C. For the purpose of this article, the term "street improvement" shall include grading, re-grading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

D. In addition to any authority which is now or may hereafter be granted by general law to the town for making sidewalk improvements, the council is hereby authorized, without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the town, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the town council may order the cost of sidewalk improvements made only on one (1) side of a street to be assessed against property owners abutting both sides of such street.

E. In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this article, the council shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

F. The effect of the act of levying assessments under the authority of this article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

Section 5.2. Establishment of proposed street lines.

A. *[Authorized.]* Whenever, in the opinion of the town council, it is in the best interest of the town to do so, the council may make provision for

the ultimate widening or extension or both of existing streets and for opening of new streets, and for the gradual acquisition of the lands necessary for such improvements, in accordance with the procedure established by this section.

B. *Platting of proposed street lines.* From and after the time of adoption of a major street plan by the town council and the board of transportation pursuant to provisions of General Statutes, Section 136-66.2, the council shall have power to request, make, or cause to be made, from time to time, surveys for the exact locating of the lines of new, extended, widened, or narrowed streets and highways in the whole or any portion of the town and the area within its outside zoning and subdivision control jurisdiction. Personnel making such surveys are empowered to enter upon lands, make examinations or surveys, and place and maintain necessary monuments thereon, at reasonable times and with due care for the property. A plat or plats of the area or areas thus surveyed shall be prepared on which are indicated the locations of the lines recommended as the planned or mapped lines of future streets, street extensions, street widenings, or street narrowings. The preparation of such plat or plats shall not in and of itself constitute or be deemed to constitute the opening or establishment of any streets or the taking or acceptance of any land for street purposes.

C. *Adoption of official map; hearing; notice.* Following the preparation of such plats, the council may officially adopt a map or maps of planned new streets and highways, extensions, widenings, narrowings, or vacations of streets within the town and the territory within its extraterritorial zoning and subdivision control jurisdiction. Before taking any such action, the council shall hold a public hearing thereon, notice of the time and place of which shall have been given once a week for two (2) successive weeks in a newspaper having general circulation in the town, and by posting such notice at four (4) public places in the town and at four (4) public places within the affected area outside the corporate boundaries. Such notice shall be published or posted for the first time not less than fifteen (15) days prior to the date fixed for said hearing. Following adoption of such a map or maps, the council shall certify a copy to the register of deeds of Wake

County, which copy shall be duly filed. The placing of any street or street line upon any official map or maps shall not in and of itself constitute or be deemed to constitute the opening or establishment of any street or the taking or acceptance of any land for street purposes.

D. *Right of town to acquire property [within lines of proposed streets] before improvement.* From and after the time of adoption and certification to the register of deeds of any such map or maps, it shall be unlawful to build upon any land within the lines of proposed streets shown thereon or to repair or otherwise improve any existing buildings within such lines until the council shall have been given an opportunity to purchase or otherwise acquire the property for street purposes as provided by this section. To that end, any person proposing to building [build] upon such land or to make repairs or improvements to any existing building on such land shall, in writing, notify the council of the nature and estimated cost of such building, repairs or improvements. The council shall then determine whether it will take the necessary steps to acquire the land prior to construction of said building or the making of said repairs or improvements. If the council fails, within sixty (60) days from the receipt of such notice, to acquire, adopt a formal resolution directing an appropriate officer to acquire, or institute condemnation proceedings to acquire the property, then the owner or other person giving notice may proceed to erect the building or to make the repairs or improvements described in such notice. The building inspector is authorized to withhold and refrain from issuing, for a period not exceeding sixty (60) days from receipt by the council of the notice herein prescribed, any building permit for the erection of any building within the lines or for the making of any repairs or improvements to existing buildings within such lines.

E. *Failure [of property owner] to give written notice [of intent to make improvement]; bar to recovery for value of improvements.* If any person, firm or corporation builds upon any land included within the proposed street lines, or repairs or otherwise improves that part of any existing building within such lines, without giving the council an opportunity to acquire the property

free from improvements, as provided in this section, the council shall not be required to pay for the value of such building, repairs, or improvements in any proceeding subsequently brought to acquire the land for the purpose shown on the officially adopted map or maps.

F. Failure of town to act; no limit to subsequent condemnation. The failure of the town council to take action under subsection D of this section within 60 days after notice shall not have the effect of limiting the right of the council at any subsequent time to condemn the land in question. In such case, however, the owner shall be entitled to full compensation as now provided by law for the building, repairs, or improvements made after the failure of the council to take action within the prescribed period.

Section 5.3. Reserved.

Editor's note—Section 5.3, relative to eminent domain, has been deleted from the Charter pursuant to the enactment of new G.S. Ch. 40A, Eminent Domain, by the General Assembly in 1981, effective Jan. 1, 1982, which provisions in effect repealed § 5.3.

Section 5.4. Acceptance of dedications.

In addition to any other authority granted the town to acquire land for streets and other purposes, the town shall have power to accept by resolution the dedication of any land or interest in land for street, utility or other town purposes, both inside and outside the corporate limits, whether such dedication is made or offered by deed, by recorded plat, or otherwise. Notwithstanding the provisions of General Statutes, Section 136-96 or any other provision of law, the acceptance of a street or street easement by resolution adopted pursuant to this section shall constitute a completed dedication and acceptance, and such dedication shall not thereafter be withdrawn except with written permission of the council.

Section 5.5. Acreage charges for water and sewer connections.

In addition to any water and sewer service and connection charges authorized by law, the council may establish and collect acreage charges for making connections to the town water and sewerage systems, both within and outside the corpo-

rate limits, to aid in the financing of new water mains and sewer outfalls and the replacement or enlargement of existing mains and outfalls. Such charges shall apply uniformly to all properties to which water or sewer service is extended subsequent to the establishment of such charges; provided, the council may establish higher acreage charges for property to be developed for commercial, institutional, or industrial use than those established for property to be developed for other uses, and may base acreage charges for residential development on the number of dwelling units per acre of land.

Section 5.6. Contracts for water or sewer extensions.

Notwithstanding any provision of this Charter or any other law, the council may enter into contracts with any person, firm, or corporation whereby such person, firm, or corporation agrees to bear the total initial costs of water main or sewer outfall extensions, and whereby the town agrees to reimburse such person, firm, or corporation for that portion of the costs in excess of the acreage charges attributable to property owned by such person, firm, or corporation to or through which such extensions are made; provided, such reimbursement shall be made only from revenues derived from acreage charges levied against property developed subsequent to the installation of such extensions; provided, further, that nothing in this section shall be construed to authorize or require the town to reimburse, or to contract to reimburse, any person, firm, or corporation for any part of the costs of installing water or sewer lines within a subdivision to serve such subdivision.

Section 5.7. Cleaning and repair of sidewalks.

It shall be the duty of every property owner in the town to maintain in good and safe repair and to keep clean and free of debris, trash, ice, snow, and other obstacles the sidewalks abutting his property.

The town council may by ordinance establish a procedure whereby town employees may repair or may clean any sidewalk or remove therefrom any

debris, trash, ice or snow upon failure of the abutting property owner, after adequate notice and opportunity to be heard, to do so. In such event, the cost of such repair, cleaning, or removal shall become a lien upon the abutting property equivalent to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the town or by foreclosure of the lien in the same manner and subject to the same rules, regulations, costs and penalties as provided by law for the foreclosure of the lien on real estate for ad valorem taxes.

ARTICLE VI. SPECIAL PROVISIONS

Section 6.1. Police officers' jurisdiction.

All policemen and other law enforcement officers of the town charged with the duty of making arrests or otherwise enforcing the criminal laws are hereby authorized and empowered to make arrests, enforce the criminal laws and to serve any and all process at any point or place in Wake County within a distance of three (3) miles from the corporate limits of the town, but not within the corporate limits of any other municipality.

Section 6.2. Settlement of claims.

The town council may authorize the town manager to settle claims against the town for personal injury or damage to property when the amount involved does not exceed the sum of one hundred dollars (\$100.00) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expense actually incurred. All such settlements shall be approved by the town attorney.

Sections 6.3—6.5. Reserved.

Section 6.6. Fees in lieu of recreation facilities.

The town council may establish a fund into which payments from developers or property owners may be deposited for the purpose of providing recreational areas or facilities and from which appropriations shall be made exclusively for the purpose of acquiring or improving recreational areas or facilities that are reasonably expected to

benefit or serve the residents of the development generating such funds. The council may provide in its land use ordinance that all developers or developers of certain types of projects shall either provide recreation areas or facilities according to standards set forth in the ordinance or pay a fee in accordance with a town-established schedule to the town's recreational areas and facilities fund. The council may also provide in its land use ordinance that under specified circumstances such fees shall be required in lieu of reservation or dedication of recreation areas or facilities. (Sess. Laws 1985, Ch. 252, § 1)

Section 6.7. Fees in lieu of sidewalks.

The town council may establish a fund into which payments from developers or property owners may be deposited for the purpose of providing sidewalks and from which appropriations shall be made exclusively for the purpose of providing or improving sidewalks that are reasonably expected to benefit or serve the residents of the development generating such funds. The council may provide in its land use ordinance that all developers or developers of certain types of projects shall either provide sidewalks according to standards set forth in the ordinance or pay a fee in accordance with a town-established schedule to the town's sidewalk fund. The council may also provide in its land use ordinance that under specified circumstances such fees shall be required in lieu of the provision of sidewalks. (Sess. Laws 1985, Ch. 252, § 1)

CHARTER COMPARATIVE TABLE

SESSION LAWS:

Year	Chapter	Section	Disposition
1961	664	1—42	1—42
1967	597	1	30—39
		2	40—42
1969	393	1(a)	7
		1(c)	16
		1(d)	22
		2	15—42
1971	698	2	30 (note)
			32 (note)
			33 (note)
			34 (note)
			36 (note)
	1010	6	36 (note)
1977	333	1	Arts. I—VI
1985	252	1	6.6, 6.7

Ordinance Number	Date	Section	Disposition
1734	8-18-81	1	2.3, 3.3
3389	8-16-05	1	2.2
3486	9-18-07	1	3.2
3545	2-17-09	1	2.1—2.8
			3.1, 3.3
			4.2—4.4, 4.7, 4.8
			5.1, 5.2, 5.4—5.7
			6.2, 6.6, 6.7

PART I
GENERAL ORDINANCES*

Chapter 1.	General Provisions
Chapter 2.	Administration
Chapter 3.	Animals and Fowl
Chapter 4.	Fire Prevention and Protection
Chapter 5.	Garbage, Refuse, Rubbish and Waste
Chapter 6.	Health and Sanitation Generally
Chapter 7.	Housing
Chapter 8.	Libraries
Chapter 9.	Licenses and Business Regulations Generally
Chapter 10.	Motor Vehicles and Traffic
Chapter 11.	Offenses—Miscellaneous Provisions
Chapter 12.	Parks and Recreation
Chapter 13.	Personnel Rules and Regulations
Chapter 13.1.	Planning
Chapter 14.	Police
Chapter 15.	Streets and Sidewalks
Chapter 16.	Vehicles for Hire
Chapter 17.	Water and Sewers
Chapter 18.	Weapons and Explosives

*State law references—Relationship of Charter provisions and general law provisions, G.S. § 160A-3; authority to separate Code into two separate parts, the “General Ordinances” and the “Technical Ordinances,” G.S. § 160A-77.

Chapter 1

GENERAL PROVISIONS

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

The provisions embraced in this and the following chapters and sections shall constitute and be designated the "Code of the Town of Garner, North Carolina," and may be so cited.

State law references—Code of ordinances, G.S. § 160A-77; ordinance books, G.S. § 160A-78; pleading and proving city ordinances, G.S. § 160A-79.

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

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

Town council. The words "town council" shall mean the town council of the Town of Garner, North Carolina.

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

County. The words "the county" or "this county" shall mean Wake County, North Carolina.

Gender. Words importing the masculine gender shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Interpretation. In the interpretation and application of any provision of this Code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provisions imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

Joint authority. All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Land. "Land" and "real estate" includes rights and easements of an incorporeal nature.

Month. The word "month" shall mean a calendar month.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in like cases, the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Officers, departments, boards, etc. Whenever reference is made to any officer, department, board, commission or other municipal agent, agency or representative, such reference shall be construed as if followed by the words "of the Town of Garner," except as herein otherwise provided.

Owner. The word "owner" when applied to buildings or land shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or part of such buildings or land.

Person. The word "person" shall extend and be applied to firms, societies, partnerships, associations, unincorporated associations, clubs, organizations, bodies politic and corporate and any other groups acting as a unit, as well as to individuals.

Personal property. The term "personal property" shall include every species of property, except real property.

Plural, singular. Words importing the singular number only may extend and be applied to several persons and things as well as to one (1) person and thing, and words importing the plural shall include the singular.

Preceding, following. The words "preceding" and "following" shall mean next before and next after, respectively.

Property. The word "property" shall include real and personal property.

Real property. The term "real property" shall include lands, tenements and hereditaments.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curblin and the adjacent property line, intended for the use of pedestrians.

Signature or subscription includes a mark when a person cannot write.

State. The words "the state" or "this state" shall be construed to mean the State of North Carolina.

Statute references. Whenever reference is made, for example, General Statutes, Section 160A-77, it shall be construed to refer to the General Statutes of North Carolina, Section 160A-77, as amended, or whatever section is cited.

Street. The word "street" shall mean and include any way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, bridge and the approaches thereto within the town when any part thereof is open to the use of the public as a matter of right for the purposes of vehicular traffic.

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

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

Town. The word "town" shall be construed as if the words "of Garner, North Carolina" followed it.

Writing, written. The words "writing" and "written" shall include printing and any other mode of representing words and letters.

Year. The word "year" shall mean a calendar year.

(Ord. No. 1004, § 1(1), (5), 4-6-59)

State law reference—Similar rules of construction, G.S. § 12-3.

Sec. 1-3. Catchlines.

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

Sec. 1-4. Effect of repeal of ordinances.

The repeal of any prior ordinance of the town by any subsequent ordinance shall not operate to revive the provisions of any ordinance which may have been repealed by such prior ordinance, unless such revival shall be expressly provided for. Ordinances repealed remain in force for the trial and punishment of all past violations of them, and for the recovery of penalties and forfeitures already incurred, and for the preservation of all rights and remedies existing by them and, so far as they apply, to any office, trust, proceeding, right, contract or event already affected by them.

State law reference—Repeal of statute not to affect statutes, G.S. § 12-2.

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

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

Sec. 1-6. Amendments to Code; effect of new ordinances; amendatory language.

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 of this Code and printed for inclusion herein. In the case of repealed chapters, sections and subsections, or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code by the town council.

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

In the event a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Code of the Town of Garner, North Carolina, is hereby amended by adding a section, to be numbered _____, which said section reads as follow:" The new section shall then be set out in full as described.

Sec. 1-7. Altering Code.

It shall be unlawful for any person in the town to change or amend by additions or deletions any part or portion of this Code or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever except pursuant to ordinance or resolution or other official act of the town council, which will cause the law of the Town of Garner to be misrepresented thereby. Any person violating this section shall be punished as provided in section 1-8 hereof.

Sec. 1-8. General penalty.

(a) Unless otherwise expressly specified in the ordinance, any person who violates any provision of this Code or of the ordinances of the town shall be assessed a civil penalty of one hundred dollars (\$100.00). The civil penalty shall be increased to two hundred dollars (\$200.00) for the second violation, three hundred dollars (\$300.00) for the third violation, and five hundred dollars (\$500.00) for the fourth and each succeeding violation in the same twelve (12) months.

(b) If specified as such in the ordinance, violation of a provision of this Code shall be a misdemeanor or infraction as provided in General Statutes, Section 14-4 and Section 160A-175.

(c) Where an ordinance specifies enforcement of a violation by a criminal penalty, any person found guilty of violating the ordinances or provi-

sions thereof, may be required to pay the court costs, or any portion thereof, in the discretion of the court.

(d) Unless otherwise expressly provided, each day's violation of a provision of this Code or other ordinance of the town shall constitute a separate offense.

(e) Civil penalties may be assessed by citation issued by the town manager or designee and recovered by the town in a civil action in the nature of a debt.

(Ord. No. (2022)5091, § 1, 1-3-22)

State law references—Violation of ordinances constitutes a misdemeanor punishable by a fine not exceeding \$50.00 or imprisonment for not exceeding 30 days, G.S. § 14-4; authority to enforce ordinances, G.S. § 160A-175.

Sec. 1-9. Responsibility for violations by corporations.

In the event any provision of this Code is violated by a corporation, the officer, agent or employee thereof who violates such provision, or who procures, aids or abets such violation, shall be subject to the same penalties as if he himself committed the violation.

Chapter 2

ADMINISTRATION

Article I. In General

- Secs. 2-1—2-3. Reserved.
- Sec. 2-4. Preparation, approval of ordinances.
- Sec. 2-5. Filing fee for elective officials.
- Secs. 2-6—2-15. Reserved.

Article II. Town Council

- Sec. 2-16. Regular meetings.
- Sec. 2-17. Special meetings.
- Sec. 2-18. Presiding officers.
- Sec. 2-19. Quorum; authority to compel attendance.
- Sec. 2-20. Minutes.
- Sec. 2-21. Reserved.
- Sec. 2-22. Debate.
- Sec. 2-23. Silence considered an affirmative vote.
- Sec. 2-24. Motion to adjourn.
- Sec. 2-25. Introducing, sponsoring, presenting ordinances, resolutions, etc.

ARTICLE I. IN GENERAL

Sec. 2-1. Reserved.

Editor's note—Ord. No. 1817, § 1, enacted Dec. 21, 1982, repealed § 2-1, relative to the abolition of the title of finance director. Said section formerly derived from a motion of Sept. 3, 1969.

Sec. 2-2. Reserved.

Editor's note—Ord. No. 3716, § 1, adopted Nov. 19, 2013, repealed former § 2-2 which pertained to position of town accountant created, and derived from the minutes of Sept. 3, 1969.

Sec. 2-3. Reserved.

Editor's note—Ord. No. 3716, § 1, adopted Nov. 19, 2013, repealed former § 2-3 which pertained to manager to employ accountant and prescribe duties, and derived from the minutes of Sept. 3, 1969.

Sec. 2-4. Preparation, approval of ordinances.

All ordinances, except ordinances of a routine nature which are prepared by the town clerk, shall be prepared by or have the approval as to form and legality by the town attorney. No ordinance shall be prepared for presentation to the town council, except on the request of a member of the council, the town manager, the town clerk or the town attorney.
(Ord. No. 1005, § 1(5), 4-6-59; Ord. No. (2023)5198, § 1, 5-16-23)

Sec. 2-5. Filing fee for elective officials.

Pursuant to North Carolina General Statutes, Section 163-294.2(e), a filing fee is hereby fixed in the amount of twenty-five dollars (\$25.00), and such fee shall be paid to the Wake County Board of Elections at the time of filing a notice of candidacy by each candidate for the office of council member and mayor of the Town of Garner.
(Ord. No. 1338, § 1, 8-6-73; Ord. No. 3716, § 1, 11-19-13)

Secs. 2-6—2-15. Reserved.

ARTICLE II. TOWN COUNCIL

Sec. 2-16. Regular meetings.

The town council shall hold regular meetings in accordance with its adopted meeting schedule.
(Ord. No. 1005, § 1(1), 4-6-59; Mo. of 3-7-66; Ord. No. 3716, § 1, 11-19-13; Ord. No. (2023)5183, § 1, 2-21-23)

Sec. 2-17. Special meetings.

A special meeting of the town council may be called at any time by the mayor, the mayor pro tem or by any two (2) members of the council by causing a written notice of such meeting to be delivered in hand or to the residence of each council member at least forty-eight (48) hours before the time of the meeting. Such notice shall briefly state the purpose for which the meeting has been called and the time of such meeting. Such notice shall be signed by the person calling the meeting. The town clerk shall cause a copy of the notice to be delivered to the press and radio in order that the citizens of the town may be advised of all such special meetings.
(Ord. No. 1005, § 1(2), 4-6-59; Ord. No. 3716, § 1, 11-19-13)

Sec. 2-18. Presiding officers.

The mayor or, in his absence, the mayor pro tem, shall take the chair at the hour appointed for meetings of the town council and shall immediately call the council to order. In the absence of the mayor or mayor pro tem, the town clerk shall call the council to order, whereupon a temporary chairman shall be elected by the members of the council present. Upon the arrival of the mayor or mayor pro tem, the temporary chairman shall immediately relinquish the chair upon the conclusion of the business immediately before the council.
(Ord. No. 1005, § 1(3), 4-6-59)

Charter reference—Mayor pro tem to act as mayor during absence or disability of the mayor, § 2.4.

Sec. 2-19. Quorum; authority to compel attendance.

A majority of all the members elected to the town council shall constitute a quorum at any

regular or special meeting of the council. In the absence of a quorum, the presiding officer shall, at the instance of any two (2) members present, compel the attendance of absent members.

(Ord. No. 1005, § 1(4), 4-6-59)

Charter reference—Quorum of town council, § 2.7.

Sec. 2-20. Minutes.

Minutes of all meetings of the town council shall be kept and recorded by the town clerk in a permanent minute book. Such minutes shall be presented to the council for approval at a subsequent regular meeting within thirty (30) days. Correction of minutes of preceding meetings shall be made only by a majority vote of the members of the council present.

(Ord. No. 1005, § 1(7), 4-6-59; Ord. No. (2023)5198, § 1, 5-16-23)

Sec. 2-21. Reserved.

Editor's note—Ord. No. (2023)5198, § 1, adopted May 16, 2023, repealed § 2-21, which pertained to agenda and derived from Ord. No. 1005, § 1(9), adopted April 6, 1959; and Ord. No. 1108, § 1, adopted Oct. 20, 1962.

Sec. 2-22. Debate.

(a) Every member of the town council desiring to speak shall address the chair and upon recognition by the presiding officer shall consign himself to the question under debate.

(b) The council member moving the adoption of an ordinance or resolution shall have the privilege of closing the debate.

(c) Any person desiring to address the council shall first secure the permission of the presiding officer to do so. In controversial matters, proponents of a proposal shall first be heard; then opponents; and proponents shall then close the debate. No further argument will be permitted except by consent of the council. An equal amount of time shall be allotted to proponents and opponents. Unless a request for additional time is made and allowed prior to the hearing, each side shall be confined to five (5) minutes.

(d) No person other than a member of the council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the council,

without the permission of the presiding officer. No question shall be asked a council member except through the presiding officer.

(Ord. No. 1005, § 1(6), 4-6-59)

Sec. 2-23. Silence considered an affirmative vote.

Unless a member of the town council states that he is not voting, his silence shall be recorded as an affirmative vote.

(Ord. No. 1005, § 1(6), 4-6-59)

Sec. 2-24. Motion to adjourn.

A motion to adjourn a meeting of the town council shall always be in order and decided without debate.

(Ord. No. 1005, § 1(8), 4-6-59)

Sec. 2-25. Introducing, sponsoring, presenting ordinances, resolutions, etc.

All ordinances, resolutions and other matters or subjects requiring action by the town council must be introduced and sponsored by a member of the council, except that the town manager, the town clerk and the town attorney may present ordinances, resolutions and other matters or subjects to the council. Any council member may assume sponsorship thereof by moving that an ordinance, resolution, matter or subject be adopted; otherwise, they shall not be considered. (Ord. No. 1005, § 1(5), 4-6-59; Ord. No. (2023)5198, § 1, 5-16-23)

Charter reference—Ordinances and resolutions, § 2.6.

Chapter 3

ANIMALS AND FOWL*

Article I. In General

- Sec. 3-1. Definitions.
- Sec. 3-2. Establishment and composition of the animal control program.
- Sec. 3-3. General duties of the animal control program.
- Sec. 3-4. Dead animals.
- Sec. 3-5. Horses, cattle, swine, chickens and other animals or fowl.
- Sec. 3-6. Backyard hens.
- Secs. 3-7, 3-8. Reserved.
- Sec. 3-9. Bird sanctuary.
- Sec. 3-10. Unlawful to allow fowl to run at large.
- Sec. 3-11. Cruelty to animals.
- Sec. 3-12. Licensing—Dogs and cats.
- Sec. 3-13. Number to be kept on premises; sanitary quarters required.
- Sec. 3-14. Reserved.
- Sec. 3-15. Prohibited actions.
- Sec. 3-16. Confinement and control of inherently dangerous mammals.
- Sec. 3-17. Confinement and control of dangerous animals.
- Sec. 3-18. Requirements for an attack training facility.
- Sec. 3-19. Reserved.
- Sec. 3-20. Required notification to the animal control program by owners of dangerous animals or dangerous dogs.
- Sec. 3-21. Dogs or animals used for sentry or guard duty.
- Sec. 3-22. Teasing and molesting.
- Sec. 3-23. Law enforcement dogs excluded.
- Sec. 3-24. Interference with enforcement of chapter.
- Sec. 3-25. Imposition of penalties for violations of chapter.

Article II. Rabies Control

- Sec. 3-26. Compliance with state law, article as supplement to state law.
- Sec. 3-27. Inoculation of dogs, cats and other pets.
- Sec. 3-28. Inoculation tag.
- Sec. 3-29. Evidence of inoculation of cats.
- Sec. 3-30. Report and confinement of animals biting persons or showing symptoms of rabies.
- Sec. 3-31. Destruction or confinement of animal bitten by rabid animal.
- Sec. 3-32. Area-wide emergency quarantine.
- Sec. 3-33. Postmortem diagnosis.
- Sec. 3-34. Unlawful killing, releasing, etc. of certain animals.
- Sec. 3-35. Failure to surrender animal for quarantine or destruction.

Article III. Impoundment

- Sec. 3-36. Generally.
- Sec. 3-37. Notice to owner.
- Sec. 3-38. Redemption by owner generally.
- Sec. 3-39. Destruction or adoption or unredeemed animals generally.
- Sec. 3-40. Suspected rabid animals not to be redeemed or adopted.

***Editor's note**—Ord. No. (2021)5011, adopted Feb. 1, 2021, amended Ch. 3 in its entirety to read as herein set out. Former Ch. 3, §§ 3-1—3-6, 3-9—3-18, 3-20—3-43, pertained to similar subject matter, and derived from Ord. No. 3630, § 1, adopted Aug. 1, 2011; Ord. No. 3738, §§ 1—4, 7, 8, 10, 11, adopted June 2, 2014; and Ord. No. 3833, §§ 1—4, adopted Nov. 22, 2016.

GARNER CODE

- Sec. 3-41. Destruction of wounded or diseased animals.
- Sec. 3-42. Security bond for impounded animals.
- Sec. 3-43. Appeal of section 3-25 and dangerous animal determination.

ARTICLE I. IN GENERAL

Sec. 3-1. Definitions.

Animal control officer means an employee or agent of the Town of Garner Animal Control Program authorized to enforce this chapter. By default, all sworn Garner Police Officers are empowered as animal control officers for the purposes of this chapter.

Animal shelter means any premises designated by the town for the purpose of impounding and caring for animals found running at large or otherwise subject to impounding in accordance with the provisions of this chapter.

At large means when any animal is off the property of its owner and not under the restraint of a competent person. This definition does not apply to any areas in town parks that have been delineated by the town council as dog exercise and play areas or dog parks.

Attack means when an animal approaches and bites or otherwise makes physical contact with a person in a vicious, terrorizing or threatening manner without the animal having been teased, molested, provoked, beaten, tortured or otherwise harmed.

Attack training facility means any facility where a person, group of persons, partnership or corporation engages in boarding, breeding, selling and/or training dogs or other animals for the purpose of having them attack.

Bite means the act of an animal seizing flesh with its teeth or jaws, so as to tear or pierce the flesh.

Dangerous animal means any animal that has demonstrated a propensity or tendency to behave in a manner which may endanger persons or property and/or any non-domesticated animal indigenous to the State of North Carolina, including hybrid animals that are part-wild. This definition includes, but is not limited to, any dog which:

- (1) Bites, attacks or otherwise inflicts severe injury on a person without provocation on public or private property;

- (2) Kills or injures a pet or domestic animal without provocation;
- (3) Is owned, trained or harbored primarily or in part for the purpose of dog fighting; and/or
- (4) Approaches a person not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.

Dealer means any person who is licensed by the U.S. Department of Agriculture as an animal dealer.

Domestic animal means any animal, including, but not limited to, dogs, cats, horses, sheep, cattle, goats, hogs, poultry, etc., domesticated by man so as to live and breed in a tame condition.

Exhibitor means any person who is licensed by the U.S. Department of Agriculture as an animal exhibitor.

Exposed to rabies means when an animal has been bitten by or been exposed to any other animal known or suspected to have been infected with rabies.

Inherently dangerous mammal means any live member of the canidae, felidae or ursidae families, including hybrids thereof, which due to their inherent nature, may be considered dangerous to humans and include:

- (1) *Canidae*, including any member of the dog (canid) family not customarily domesticated by man, or any hybrids thereof, including wolf hybrids which are a cross between a wolf and a domesticated dog, but not including domesticated dogs (*canis familiaris*);
- (2) *Felidae*, including any member of the cat family weighing over fifteen (15) pounds not customarily domesticated by man, or any hybrids thereof, but not including domestic cats (*felis catus*); and
- (3) *Ursidae*, including any member of the bear family, or any hybrids thereof.

Kennel, dealer, or breeder means any person, group of persons, partnership or corporation engaged in buying, selling, breeding or boarding animals.

Neutered means any male animal which has been operated upon to prevent reproduction.

Noxious odor, for purposes of this section, means any odor resulting from the keeping of an animal (or animals) that can be identified on an adjacent property and interferes with the ordinary use and enjoyment of private or public property.

Owner, when used in the context of an animal, means any person, group or association of persons, firm, partnership or corporation owning, keeping, having charge of, taking care of, sheltering or frequently feeding an animal, or knowingly allows an animal owned by others to visit the owner's property. An owner is responsible for the care, actions and behaviors of his animal(s). In the event that the owner of an animal is a minor, the parent or guardian of such minor shall be held liable for non-compliance with the provisions of this chapter.

Owner, when used in the context of real property, means any person, group or association of persons, firm, partnership or corporation owning, renting or leasing real property, such that the secured enclosure requirement and other requirements of this chapter apply equally to a tenant or lessor as to an owner of real property.

Pet means a domesticated animal kept for pleasure rather than utility.

Restraint means an animal is under restraint within the meaning of this chapter if it is (1) controlled by means of a chain, leash or other like device; (2) secured within a vehicle; (3) within a secure enclosure; or (4) within the dwelling house of the owner.

Secure enclosure means inside a residence (home or apartment) if the animal is kept as an inside pet. For an outdoor pet, a secure enclosure means an enclosure with a minimum size of fifteen (15) feet by eight (8) feet by eight (8) feet with a floor consisting of a concrete pad at least four (4) inches thick. The walls and roof of the structure must be constructed of welded chain link fencing with a minimum thickness of twelve (12) gauge supported by galvanized steel poles at least two and one-half (2½) inches in diameter. The vertical support poles must be sunk in

concrete filled holes at least eighteen (18) inches deep and at least eight (8) inches in diameter. The chain link fencing must be anchored to a concrete pad with galvanized steel anchors placed at intervals no more than twelve (12) inches along the perimeter of the concrete pad.

Severe injury means any physical injury that results in broken bones or disfiguring lacerations or requires cosmetic surgery or hospitalization.

Spayed means any female animal which has been operated upon to prevent conception.

Stray means any dog or cat that appears homeless or unwanted, and any dog that is not displaying a valid rabies tag unless exempted under subsection 3-28(a) of this chapter.

Untimely means occurring between the hours of 11:00 p.m. and 7:00 a.m.

Wild or exotic animal shall be defined as one which would ordinarily be confined to a zoo, one which would ordinarily be found in the wilderness of this or any other country, one which is a species of animal not indigenous to North America or one which otherwise causes a reasonable person to be fearful of significant destruction of property or of bodily harm. The latter includes, but is not limited to, such animals as reptiles (snakes, alligators, crocodiles), monkeys, raccoons, squirrels, ocelots, bobcats, wolves, hybrid wolves and other such animals or any animal which causes zoonotic diseases, or any hybrid or cross-breed of such animals.

(Ord. No. (2021)5011, 2-1-21; Ord. No. (2022)5100, § 1, 2-7-22)

Sec. 3-2. Establishment and composition of the animal control program.

(a) There is hereby created the Animal Control Program of the Town of Garner, hereinafter referred to as the animal control program, which shall be composed of such employees and or officials as shall be determined by the town council.

(b) Employees or agents enforcing this chapter shall be designated as animal control officers. In the performance of their duties, animal control

officers shall have all the powers, authority and immunity granted under this chapter and by the general laws of this state to enforce the provisions of this chapter and the General Statutes of North Carolina as they relate to the care, treatment, control or impounding of animals.

(c) Except as may be otherwise provided by statutes, local laws or ordinances, no officer, agent or employee of the town charged with the duty of enforcing the provisions of this chapter or other applicable laws shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of such duties unless he acts with actual malice.

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-3. General duties of the animal control program.

(a) The animal control program shall be charged with the responsibility of:

- (1) Enforcing all state and local laws, ordinances and resolutions relating to the care, custody and control of animals within the corporate limits of Garner;
- (2) Assisting in the enforcement of the laws of the state with regard to animals and especially with regard to vaccination of animals against rabies and the confinement or controlling of dangerous animals and dangerous dogs;
- (3) Investigating cruelty or abuse with regards to animals; and
- (4) Conducting canvasses of the town, including the homes in the town, as necessary for the purpose of ascertaining that all animals are licensed and vaccinated against rabies as required by local ordinance or state statute.

(b) It shall be the duty of the animal control program to keep, or cause to be kept, accurate and detailed records of:

- (1) Impoundment and disposition of all animals coming into the town's custody;
- (2) Complaints and investigations of bite cases; and

(3) All other records deemed necessary.
(Ord. No. (2021)5011, 2-1-21)

Sec. 3-4. Dead animals.

It shall be unlawful for the owner of any dead animal, or the occupant of any land on which a dead animal is found, to fail to remove such dead animal, at the expense of said owner or occupant, to a place designated by the director of public works.

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-5. Horses, cattle, swine, chickens and other animals or fowl.

(a) Livestock and domestic fowl of all descriptions except backyard hens (chickens only) are hereby prohibited in any area of the town except those areas zoned for agricultural purposes by the zoning ordinance. Furthermore, it shall be unlawful, regardless of zoning, for any person to maintain, keep, house or stable any horse, mule, pony, cow, sheep, goat, domestic fowl (excluding backyard hens) or livestock in the town within three hundred (300) feet of any dwelling, school, church, business, commercial or professional establishment. Not more than a total of three (3) horses, mules, ponies, cows, sheep, goats or other such animals shall be maintained on one (1) lot and such lot must contain no less than one (1) acre for each such animal maintained. No more than a total of four (4) domestic fowl (excluding backyard hens) shall be maintained on one (1) lot and such lot must contain no less than one (1) acre for each four (4) or fewer domestic fowl (excluding backyard hens) maintained.

(b) It shall be unlawful for any person to maintain, keep, house, possess or have under their control within the town any swine, any venomous reptile or any other wild or exotic animal. Any swine, venomous reptile, or other wild or exotic animal may be taken and impounded by the animal control officer for the protection of the animal, the public, or both. Any person who violates this subsection shall be subject to a civil penalty of five hundred dollars (\$500.00) per animal, as well as reimbursement to the Town for all costs incurred while impounding, attempting to recapture, shelter, or euthanize an escaped

swine, venomous reptile, or other wild or exotic animal. Each day of a continuing violation shall constitute a separate offense.

(c) All animals or livestock referred to in subsection (a) shall be kept and maintained in an enclosed area. Stables shall be constructed and maintained in conformity with the requirements of the Wake County Board of Health. After the stable plans and area have been approved as to sanitation requirements by the health department, application shall then be made to the building inspector for a permit for such construction. In all cases, the structure shall be located so as to give the least possible offense to the occupants or residents on adjoining lots. All such stables shall be cleaned and disinfected at least once each week and kept free of noxious odors.

(d) This section is not intended to and shall not apply to the passing of animals or livestock of an agricultural nature such as referred to in subsection (a) through the town or to their temporary use within the prohibited distances of occupied dwellings and buildings for plowing, hauling and similar purposes and other uses of a temporary nature such as exhibition, provided that such animals and livestock are not kept, stabled or maintained within the restricted areas. This section is not intended to and shall not apply to animals of a species customarily used in North Carolina as ordinary household pets, non-flesh-eating fish confined to an aquarium, birds or insects. It is not intended to and shall not apply to lawfully operated and located pet shops, animal-control shelters, scientific research laboratories, circuses and veterinary offices, provided such animals are maintained in quarters so constructed and maintained as to prevent escape.

(Ord. No. (2021)5011, 2-1-21; Ord. No. (2022)5100, § 2, 2-7-22)

Sec. 3-6. Backyard hens.

(a) *In general.* It is unlawful to keep backyard hens (i) without an approved permit, (ii) in violation of the terms of this section and a duly issued permit, or (iii) after a permit has been revoked.

(b) *Backyard hen permit.* A backyard hen permit may be issued, regardless of zoning, on lots that contain single-family, duplex, triplex, quadraplex or townhome dwelling units, excluding apartment complexes and condominiums.

(c) *Number permitted.* No more than eight (8) hens are allowed per lot regardless of size and number of dwelling units except in those areas zoned for agricultural uses. It shall be unlawful to keep or maintain any rooster.

(d) *Uses.* All aspects of the keeping of hens, including keeping chicks, eggs, manure, compost and other related attributes and activities, must be only personal and non-commercial.

(e) *Coop and run standards.*

- (1) A coop is a roofed-housing structure where hens are kept. The coop has an indoor area where chickens sleep, perch, nest and lay eggs. The coop also provides shelter from weather and predators.
- (2) A run is an enclosed pen located outside of the coop structure.
- (3) An enclosed run is completely bounded on all sides, including overhead, by a fence, cage, or wire.
- (4) An open run is bounded on all sides by a fence, cage, or wire but is open overhead.
- (5) A coop, or combination coop and run of sufficient size should be provided for the hens to include a minimum coop area of four (4) square feet per chicken if a run is provided. A minimum of ten (10) square feet coop area is required if no run is provided or chickens are to be contained in the coop.
- (6) Chickens shall be secured in the chicken coop during non-daylight hours. During daylight hours, chickens may be located in the run if provided. The coop and run shall be properly designed and constructed to provide adequate security from rodents, wild birds, and predators and provide sufficient ventilation.
- (7) The maximum area for all coop and run structures is three hundred (300) square feet.

- (8) The maximum height for a coop or run is seven (7) feet measured from the ground to the top of the structure.
- (9) The minimum height for an open run is four (4) feet.

(f) *Location.*

- (1) All hens, coop structures, and runs must be located in the rear yard.
- (2) Coop structures and runs must be located at least ten (10) feet from any rear or interior side lot line. For corner lots the corner-side yard setback shall be the same as the principal building.

(g) *Maintenance.* All areas within the coop and run shall be kept in a neat and sanitary condition, including removal of droppings, uneaten feed, feathers and other waste, in order to preclude odors and other nuisance violations.

(h) *Slaughter.*

- (1) On-premises slaughter shall be prohibited as provided for under section 3-11 of the Town Code.
- (2) Dead hens shall be removed according to the provisions of section 3-4 of the Town Code.

(i) *Enforcement.*

- (1) The planning department shall be responsible for administering and issuing backyard hen permits.
- (2) The animal control officer shall be responsible for enforcing the provisions of Town Code regarding backyard hens.
- (3) A backyard hen permit may be revoked by the planning director or designee when an individual fails to maintain the property in accordance with the approved permit and associated requirements or applicable requirements of the Town Code. Before a permit may be revoked, the planning department shall give the permit recipient ten (10) days' notice of the intent to revoke the permit and their right to obtain an informal hearing on the allegations. If the permit is revoked, the planning director or designee shall

provide a written statement to the permit recipient of the decision and the reasons for it. Failure to remove the hens from the premises within ten (10) days after permit revocation shall result in the matter being forwarded to the town attorney for immediate action, including confiscation of the hens by the animal control officer or agent.

(Ord. No. (2021)5011, 2-1-21; Ord. No. (2022)5100, § 3, 2-7-22)

Secs. 3-7, 3-8. Reserved.

Sec. 3-9. Bird sanctuary.

(a) The area embraced within the corporate limits of the town and all lands owned or leased by the town outside the corporate limits are hereby designated as a bird sanctuary.

(b) It shall be unlawful to trap, hunt, shoot or otherwise kill, within the sanctuary established by paragraph (a), any native wild bird; provided, it shall be lawful to trap starlings or similar birds or fowl, or for an authorized Garner Police Officer to shoot the same, when such birds or fowl are found to be congregating in such numbers in a particular locality that they constitute a nuisance or a menace to health or property.

(c) It shall be unlawful for any person, within the bird sanctuary, to shoot a bow or other similar contrivance, or to fire any pistol, gun or other firearm, except on archery ranges, firing ranges or in legally established shooting galleries or ranges, or in the discharge of duty by law enforcement officers, provided the use of firearms in the destruction of rodents or similar animals or reptiles that are considered a menace to public health or property may be permitted by special permission of the chief of police.

(d) The bird clubs of the town are hereby granted permission to erect artistic signs at such places and of such design as may be approved by the town manager. Such signs shall give notice of the regulations prescribed by this section.

(e) A violation of this section is punishable as a misdemeanor with a maximum fine of one hundred dollars (\$100.00).

(Ord. No. (2021)5011, 2-1-21; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 3-10. Unlawful to allow fowl to run at large.

It shall be unlawful for any person owning and keeping chickens and other domestic fowl to allow the fowl to be at large in the town.

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-11. Cruelty to animals.

(a) It shall be unlawful for any person to molest, torture, torment, deprive of necessary sustenance, cruelly beat, needlessly mutilate or kill, wound, injure, poison, abandon or subject to conditions detrimental to its health or general welfare any animal, or to cause or procure such action. The words "torture" and "torment" shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted; but such terms shall not be construed to prohibit lawful shooting of birds, deer and other game for human food; nor to prohibit a veterinarian, the State of North Carolina Health Director or Animal Control Program agents from destroying dangerous, unwanted or injured animals in a humane manner nor to prohibit the lawful use of animals in scientific research.

(b) Animals which are housed or maintained outside shall not be restrained by means of a device which is not at least fifteen (15) feet in length and of a size commensurate with the size of the animal, provided, however, that that no such restraint (also known as "tethering") is lawful on and after May 1, 2011, except as permitted in subsection (e) below.

(c) Any animal housed outside must be provided shelter. This must have a solid roof, floor and three (3) sides so as to adequately protect against the elements. Any animal so housed must have access to clean water and food.

(d) Dogs housed outdoors must be in fenced yards or pens. The pen shall be at least ten (10) feet by ten (10) feet for each dog under forty (40) pounds. Dogs weighing forty (40) pounds or greater must have a minimum pen size of at least ten (10) feet by twenty (20) feet for each dog. Each dog must have a dog house or shelter as specified in subsection (c). If no natural shade is available in the pen, a cover for the pen must be provided.

(e) It shall be unlawful to tether, fasten, chain, tie or restrain an unattended dog to any tree, fence, post, dog house or any other object, provided, however, that this chapter shall not apply to dogs presently maintained in a fashion consistent with all existing town ordinances as of the effective date of the ordinance from which this chapter is derived so long as their owner(s) register the dog within sixty (60) days of the effective date of the ordinance from which this chapter is derived, with the registration form to contain a description of the dog (including name, breed, and age) and a current photograph of the dog.

(f) "Attended tethering" shall be permitted if the owner or other responsible person is present on the premises with the dog. Tethering of attended dogs shall be on a device of at least ten (10) feet long with a harness, collar or other device commensurate with the size of the dog and shall not exceed three (3) hours in continuous duration in a twenty-four-hour period.

(g) An owner must remove the dog from a tether within thirty (30) days of being notified by the animal control officer and have the dog housed indoors or in an appropriate outdoor enclosure. The animal control officer shall have the authority to take custody of any dog which remains tethered after the thirty-day notification period. Any owner reclaiming a dog seized for violation of the tethering ordinance shall be required to show proof of suitable outdoor housing.

(h) Any animal not reclaimed from the animal shelter within five (5) business days shall become the property of the town. The owner shall be responsible for any fees that accrue as a result of any animal being in the animal shelter.

(Ord. No. (2021)5011, 2-1-21; Ord. No. (2022)5100, § 4, 2-7-22)

Sec. 3-12. Licensing—Dogs and cats.

(a) For every dog or cat six (6) months of age or older, a license shall be required and a one-time license fee in the amount of twenty-five dollars (\$25.00) shall be immediately due and payable to the town.

- (1) Proof of a current rabies inoculation shall be required as a condition to obtaining a license under this section.
- (2) The license fee for spayed or neutered dogs or cats shall be ten dollars (\$10.00), if satisfactory written documentation of such spaying or neutering from a licensed veterinarian is provided to the town at the time the fee is paid.

(b) Upon learning of an unlicensed dog or cat in the town, the animal control officer shall issue a written warning to the animal's owner giving them thirty (30) days to comply with the licensing requirements herein. If a license has not been obtained after thirty (30) days, the owner will be issued a civil citation for the violation.

(c) Reserved.

(d) It shall be unlawful for any dog owner to fail to provide their dog with a collar or harness to which a current dog tag is securely attached. As further proof of registration, the collar or harness, with attached registration tag, must be worn at all times, except during the time the dog is hunting, or is performing at shows, obedience trials, tracking tests, field trials, schools, or other events sanctioned and supervised by a recognized organization.

(e) It shall be unlawful for any person to use an animal registration tag for any animal other than the animal the tag is issued to.

(f) Reserved.

(g) Exemptions:

- (1) The licensing requirements herein shall not apply to any animal kept in a commercially licensed kennel or other holding facility, used as a human assistance dog, used as a governmental police dog, or belonging to a nonresident of the town and kept within the boundaries of the

town for not longer than thirty (30) days; provided, that all animals of nonresidents shall at the time of entry into the town be properly vaccinated against rabies, and while being kept within the town, shall meet all other requirements of this chapter.

- (2) Owners of cats are hereby exempted from the provisions of this section related to the wearing of collars and display of tags.

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-13. Number to be kept on premises; sanitary quarters required.

(a) It shall be unlawful for any person(s) to keep or maintain more than two (2) dogs on any lot or parcel of land having less than twenty thousand (20,000) square feet, and an additional seven thousand (7,000) square feet shall be required for each additional dog.

(b) It shall be unlawful for the owner or custodian of any animal to maintain such animal in quarters that are not sanitary.

(c) Exemptions: The requirements in subsection 3-13(a) shall not apply to:

- (1) Dogs kept in an approved animal shelter, a veterinarian's facility, a commercially licensed kennel or any other commercially licensed holding facility.
- (2) Participants certified by a well recognized professionally operated rescue organization provided animals are adopted out within one (1) year of receipt and provided the participant is registered with the Town of Garner.
- (3) Dogs which are less than five (5) months of age.
- (4) Any dog for which the owner can provide a certificate issued by (1) the American Kennel Club (AKC) "Canine Good Citizen" training program that demonstrates that the dog is properly trained or (2) another bona fide, comprehensive training program that meets the same standards outlined in the AKC program, so long as

any owner with more than the number of dogs allowed in subsection 3-13(a) has such a certificate for all of the dogs they own. The dogs requiring such training must be enrolled in an approved training program within thirty (30) days of the time that the number of dogs exceeds the allowable number of dogs according to this chapter. The training program must be completed successfully within twelve (12) months of the time that the number of dogs exceeds the allowable number of dogs according to this chapter.

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-14. Reserved.

Sec. 3-15. Prohibited actions.

(a) It shall be unlawful for any person to own, keep, possess or maintain an animal in such a manner or to permit an animal to run at large.

- (1) The animal control officer shall confiscate any animal found at large and impound such animal at the animal shelter in accordance with the provision of article III.
- (2) Exemption: An owner may lawfully permit an animal which is not dangerous to be at large in the course of a show, obedience school, tracking tests, field training, or other supervised by a recognized organization.

(b) It shall be unlawful for any person to possess or maintain an animal that engages in the following conduct that creates a nuisance:

- (1) Animals that habitually or repeatedly disturb, interfere with or annoy human beings or other animals while not in the mode of attack;
- (2) Animals that tip over garbage containers, or damage gardens, flowers, or vegetables;
- (3) In the case of a female animal, one that is not confined in a secure enclosure during estrus;

- (4) Allowing any dog to leave its feces on public streets, sidewalks, town parks, other town property or the property of another without the permission of the owner of the property;
- (5) Maintaining an animal that barks, whines, howls or yowls in an excessive, continuous or untimely fashion, or makes other noise in such a manner that results in an annoyance or interference with the reasonable use and enjoyment of neighboring premises;
- (6) Maintaining an animal that damages or interferes with private property;
- (7) Maintaining an animal that chases, snaps at, attacks, or otherwise molests pedestrians, bicyclists, motor vehicle passengers, or farm stock or domestic animals;
- (8) Maintaining an animal that is diseased or dangerous to the health of the public or other domestic animals unless under the care of a licensed veterinarian;
- (9) Maintaining any rooster that loudly and habitually crows; or
- (10) Maintaining an animal that is at large or loiters in public places or on the property of another.

(c) When the animal control officer's investigation determines that three (3) reports of actions prohibited by this section have occurred within any ninety-day period, a "Nuisance Animal Notice" will be issued which requires the owner or person in possession of the animal to keep the animal on his or her own property at all times unless the animal is under restraint or to take specific actions to limit excessive barks, whines, howls, yowls or other disturbing behavior. Penalties for subsequent violations will begin after the Nuisance Animal Notice has been issued (fourth offense within any ninety-day period).

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-16. Confinement and control of inherently dangerous mammals.

(a) It shall be unlawful for any owner to keep an inherently dangerous mammal within the town.

(b) Exemptions: The following shall be exempt from this section:

- (1) Any nonprofit institution or exhibitor or dealer which owns or harbors inherently dangerous mammals for research, provided that such institution/facility/premises are licensed by the U.S. Department of Agriculture or Interior.
- (2) Traveling fairs, circuses and carnivals.

(c) Recapturing. The owner of any inherently dangerous mammal shall reimburse the town for all costs incurred while attempting to recapture any escaped inherently dangerous mammal. If the animal is sheltered or euthanized by animal control, the owner shall also pay these costs. (Ord. No. (2021)5011, 2-1-21)

Sec. 3-17. Confinement and control of dangerous animals.

(a) It shall be unlawful for any owner of a dangerous animal to permit it to be at large. An owner of a dangerous animal, who resides in the town limits, shall submit a dangerous animal application and pay a non-refundable one hundred dollar (\$100.00) application fee within five (5) business days:

- (1) Of the date when a dangerous animal is brought into the town limits to reside; or
- (2) The date of the written declaration that the animal is dangerous in accordance with subsection (b).

(b) The animal control officer may declare any animal as dangerous who (1) bites, attacks or otherwise inflicts severe injury on a person without provocation on public or private property, (2) kills or injures a pet or domestic animal without provocation, (3) is owned, trained or harbored primarily or in part for the purpose of dog fighting and/or (4) approaches a person not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.

It is unlawful for any owner to maintain or harbor unconfined or unrestrained any animal which has been deemed a dangerous animal by the animal control officer.

(b1) Any animal which has been declared as dangerous after it has killed or otherwise inflicted severe injury on a person shall be immediately impounded and shall be euthanized after five (5) business days of impoundment, unless a timely appeal of the dangerous animal determination has been filed in accordance with section 3-43.

(c) The owner of an animal that has been deemed dangerous which has generally been maintained outdoors shall have thirty (30) days from the date of notification to provide a humane, outdoor secure enclosure. The owner shall post a plainly visible sign upon the secure enclosure warning that a dangerous animal is on the premises. The sign shall be one (1) foot by two (2) feet or (2) square feet in area. The lettering on the sign shall be proportionate with the sign and must be approved by the animal control officer. The animal control officer may grant an additional thirty (30) day extension for compliance with this subsection upon a showing of good cause by the owner.

(d) The owner of a dangerous animal which is generally maintained indoors, including in a location such as an apartment where it is not feasible to construct an enclosure, shall confine the animal inside the owner's residence. The owner's residence shall satisfy the secure enclosure requirement.

(e) The animal deemed to be dangerous shall be kept at the animal shelter at the owner's expense until the appropriate enclosure is available and the owner applies for and receives the permit.

(f) When a dangerous animal is confiscated under this provision except as provided in subsection (b1), the owner of any dangerous animal shall be given written notice at the time of confiscation that if the owner fails to obtain a permit to upon the expiration of thirty (30) days from the confiscation the animal will become property of the town and will be turned over to the animal shelter for disposition. This provision

applies to animals who reside in the town limits and those who are temporarily in the town limits at the time of the determination that the animal is dangerous. For those animals that do not reside within the town limits, the police chief may waive the requirement for a permit and may authorize the release of the animal from the shelter to another animal control authority where the owner of the animal or the animal resides.

(g) If the owner of a dangerous animal obtains a permit to return the animal to the owner's premises, and including where required, constructs a secure enclosure which is approved by the animal control officer, the animal can be released from confiscation so long as all civil penalties due, fees owing to the Town of Garner Animal Control Program and the animal shelter for harboring, caring for and maintaining the animal are paid.

(h) If the owner of a dangerous animal obtains a permit to return the animal to the owner's premises, and including where required, constructs the secure enclosure, and the animal is again confiscated, the animal will immediately become the property of the town and will be turned over to the animal shelter for disposition.

(i) The owner of a dangerous animal shall keep the animal leashed, muzzled and under the control of an adult owner or other responsible adult at all times when the animal is not inside the owner's residence or in the secure enclosure described above.

(j) The owner of a dangerous animal shall permanently identify the animal as a dangerous animal by a microchip implanted under the animal's skin within thirty (30) days from the date of notification of the dangerous animal declaration, at the owner's expense.

(k) The owner of a dangerous animal will be notified in writing regarding whether the "generally maintained indoors" or "generally maintained outdoors" subsections apply to that animal.

(l) The owner of a dangerous animal shall allow the animal control officer access to inspect the owner's premises as necessary to ensure compliance with state law and local ordinance.

(m) Once the owner of a dangerous animal has met all criteria for harboring a dangerous animal, and the permit is approved by the chief of police based on recommendations from the animal control officer, the animal may be released to the owner from the animal shelter.

(n) To obtain the permit described above, the owner shall be required to establish the following: that all civil penalties due have been paid, that all fees due to the animal control program and the animal shelter have been paid, that a permit fee of five hundred dollars (\$500.00) has been paid, that the owner agrees that the animal shall be kept indoors or maintained on a leash, muzzled, and under the control of an adult owner or other responsible adult at all times, or in the secure enclosure where required, that the owner has obtained owners or renters insurance with liability coverage for dog attacks, and has provided the town with a certificate of insurance; the permit shall become effective only upon approval by the animal control officer.

(o) Regardless of whether the owner can meet the requirements of subsection (n), the chief of police has the discretion to deny a permit based on the totality of the circumstances if there is an unreasonable risk to public health, safety, or welfare would exist if the dangerous animal remains in the town limits.

(p) If the owner of a dangerous animal moves from Garner to another jurisdiction, the owner shall inform the appropriate animal control authorities in that jurisdiction that the animal was deemed dangerous by the Garner animal control officer. Any dangerous animal which is currently impounded may be released only to an appropriate animal control authority in the owner's new jurisdiction.

(q) The issuance or denial of a dangerous animal permit may be appealed to the town manager within five (5) business days of the issuance or denial by the owner of the dangerous animal, an adjoining property owner, the victim of an attack or bite or the victim's family member or guardian, or the owner of another animal which was attacked or bitten by the dangerous animal. The town manager or his designee shall hold a hearing and issue a written decision

within five (5) business days. Any subsequent appeal must be filed with the Wake County Superior Court within ten (10) days and shall be heard on the record in the nature of certiorari. (Ord. No. (2021)5011, 2-1-21; Ord. No. (2022)5100, § 5, 2-7-22)

Sec. 3-18. Requirements for an attack training facility.

It shall be unlawful for any person, group of persons, partnership or corporation to conduct training for dogs or other animals intended to prepare the animals to attack at any location unless such training is conducted within a secure enclosure.

Such training within a secure enclosure is within the meaning of this chapter if it is performed within (1) a fence or structure of adequate height to prevent the dog or animal from jumping, climbing or otherwise escaping from the enclosure and (2) said training is conducted in the presence of the owner(s) or trainer(s) at all times.

Any dog or animal trained or being trained to attack is deemed to be dangerous and is subject to all the provisions of this chapter relative to dangerous animals. (Ord. No. (2021)5011, 2-1-21)

Sec. 3-19. Reserved.

Sec. 3-20. Required notification to the animal control program by owners of dangerous animals or dangerous dogs.

The owner of an animal declared dangerous or permitted pursuant to section 3-17 shall inform the animal control officer or a Garner Police Officer, as soon as practicable, but not later than twenty-four (24) hours, after the occurrence of any of the following:

- (1) An attack or biting upon any human being committed by the dangerous animal in the owner's care or control.
- (2) An attack or biting upon any domesticated animal or pet while the dangerous animal is off the owner's property.

- (3) The destruction of or damage to property of another by the dangerous animal.

- (4) The roaming or escape of any dangerous animal required to be restrained or confined to a secure enclosure.

(Ord. No. (2021)5011, 2-1-21; Ord. No. (2022)5100, § 6, 2-7-22)

Sec. 3-21. Dogs or animals used for sentry or guard duty.

Any person owning, maintaining or harboring a dog or other animal for sentry or guard purposes must register said dog or animal with the animal control program.

The owner shall post a plainly visible sign warning that there is a guard or sentry dog or animal on the premises. Said sign shall not exceed one (1) foot by two (2) feet or two (2) square feet in area.

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-22. Teasing and molesting.

It shall be unlawful for any person to tease, bait, or in any way molest any animal. (Ord. No. (2021)5011, 2-1-21)

Sec. 3-23. Law enforcement dogs excluded.

Any dog used by a law enforcement agency in the investigation of crimes or as otherwise necessary in the enforcement of the law is excluded from requirements of this chapter with the exception that they are regulated by the provisions of articles II and III of this chapter.

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-24. Interference with enforcement of chapter.

It shall be unlawful for any person to interfere with, hinder or molest the animal control program agents or officers or veterinarians in the performance of any duty authorized by this chapter, or seek to release any animal in the custody of such, agents, except as otherwise specifically provided.

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-25. Imposition of penalties for violations of chapter.

(a) Except as otherwise provided, any person who violates any provision of this chapter shall be assessed a civil penalty of one hundred dollars (\$100.00). If the violation continues, each day's violation shall constitute a separate offense. Any penalty not paid within thirty (30) days from the date of issuance will double. Civil penalties may be assessed by citation and recovered by the town in a civil action in the nature of a debt.

(b) Any person who violates subsection 3-5(c) regarding a noxious odor shall be provided written notice of the violation and an explanation of how to come into compliance with the ordinance violated. If the violation is not corrected within fifteen (15) days, the owner shall be assessed a civil penalty of one hundred dollars (\$100.00). Each day after the initial fifteen-day period counts as a new violation.

(c) Any person who violates sections 3-5 or 3-13 regarding the number of animals allowed shall be provided written notice of the violation and an explanation of how to come into compliance with the ordinance violated. If the violation is not corrected within fifteen (15) days, the owner shall be assessed a civil penalty of one hundred dollars (\$100.00) for each animal over the limit.

(d) Violations of subsection 3-12(a) (Licensing—Dogs and cats):

- (1) Any violation of this subsection shall incur a one hundred dollar (\$100.00) civil penalty.
- (2) Any violation of this subsection that is remedied by the dog or cat in question being licensed within thirty (30) days of the issuance of the civil citation shall be dismissed.
- (3) Any violation of this subsection that is not paid within sixty (60) days of the issuance of the civil citation shall have the fine doubled to two hundred dollars (\$200.00).

(e) Violations of subsection 3-13(a) (number to be kept on premises) incur the following civil penalties:

- (1) One hundred dollar (\$100.00) fine for each dog over the limit.
- (2) Subsequent violations are accrued every seven (7) days so long as the dogs remain on the property.

(f) Violations of section 3-15 (Prohibited actions) incur the following civil penalties:

- (1) *First violation after nuisance violation issued*—Fifty dollars (\$50.00).
- (2) *Second violation after nuisance violation issued*—One hundred dollars (\$100.00).
- (3) *Succeeding violations*—One hundred fifty dollars (\$150.00).

(g) Violations of sections 3-17 (Confinement and control of dangerous animals) and 3-20 (Required notification to the animal control program by owners of dangerous animals or dangerous dogs) shall be assessed a five hundred dollar (\$500.00) civil penalty and the animal shall be seized by the animal control officer or a Garner Police Officer.

(h) If any dangerous animal shall, when unprovoked, attack, wound or otherwise injure or kill a human being, the owner shall be assessed a five hundred dollar (\$500.00) civil penalty and the animal shall be seized by the animal control officer or a Garner Police Officer.

(i) If any dangerous animal shall, when unprovoked, kill or wound or assist in killing or wounding any domestic animal or pet, the owner of said animal shall be assessed a two hundred fifty dollar (\$250.00) civil penalty and the animal shall be seized by the animal control officer or a Garner Police Officer.

(j) Violations of section 3-9 or section 3-24 shall constitute a misdemeanor as provided under General Statutes Section, 160A-175 and General Statutes, Section 14-4.

(k) A request for appeal regarding a violation of this chapter must be made in writing and filed with the town clerk within five (5) business days of the action or decision complained of and must

state with particularity the grounds of the appeal. The appeal shall be heard by the appeals board constituted to hear appeals under section 3-43.

(l) In addition, enforcement of this chapter may be by appropriate equitable remedy, injunction or order of abatement issued by a court of competent jurisdiction.

(Ord. No. (2021)5011, 2-1-21; Ord. No. (2022)5091, § 1, 1-3-22; Ord. No. (2022)5100, § 7, 2-7-22)

ARTICLE II. RABIES CONTROL

Sec. 3-26. Compliance with state law, article as supplement to state law.

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

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

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-27. Inoculation of dogs, cats and other pets.

(a) It shall be unlawful for an owner to fail to provide current inoculation against rabies (hydrophobia) for any dog or cat four (4) months of age or older. Should it be deemed necessary by the county health director, the town council or the state public health veterinarian that other pets be inoculated in order to prevent a threatened epidemic or to control an existing epidemic, it shall be unlawful for an owner to fail to provide current inoculation against rabies for that pet.

(b) A rabies inoculation shall be deemed "current" for a dog and cat if two (2) inoculations have been given one (1) year apart and booster doses of rabies vaccine are administered every three (3) years thereafter.

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-28. Inoculation tag.

(a) It shall be unlawful for any dog owner to fail to provide the dog with a collar or harness to which the dog's current rabies vaccination tag is securely attached. The collar or harness, with attached tag, must be worn at all times, except during the time the dog is hunting or is performing at shows, obedience trials, tracking tests, field trials, schools or other events sanctioned and supervised by a recognized organization. The owner must also maintain the rabies vaccination certificates as written evidence to prove that the dog has a current rabies inoculation.

(b) It shall be unlawful for any person to use a rabies inoculation tag for any animal other than the one the tag is issued to.

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-29. Evidence of inoculation of cats.

Cats shall not be required to wear the metallic tag referred to in section 3-28 of this article. However, the owner of a cat shall be required to maintain the rabies vaccination certificates as written evidence to prove that the cat has a current rabies inoculation.

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-30. Report and confinement of animals biting persons or showing symptoms of rabies.

(a) Every dog or cat which has bitten any person or which shows symptoms of rabies shall be confined immediately and shall be promptly reported to the animal control program, and thereupon shall be securely quarantined, at the direction of the animal control officer, for a period of ten (10) days, and shall not be released from such quarantine except by written permission from the animal control officer.

(b) Dogs and cats quarantined under this section shall be confined in a veterinary hospital, boarding kennel or animal shelter at the expense of the owner; provided, however, that if the animal control officer determines that the owner of an animal which must be quarantined has adequate confinement facilities upon his own premises or within the home, the animal control

officer shall authorize the animal to be confined on such premises. The animal control officer may authorize the animal to be confined on the owner's premises when the owner has a fenced-in area in his yard and the fenced-in area has no entrances or exits that are not locked, and the animal is currently vaccinated against rabies. Proof will be required at the time of investigation. If the animal is confined on the owner's premises, the animal control officer shall visit the premises for inspection purposes at approximately the middle of the confinement period and again at the conclusion of the confinement period.

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

(d) If rabies does not develop within ten (10) days after a dog or cat is quarantined under this section, the dog or cat may be released from quarantine with the written permission of the animal control officer. If the dog or cat has been confined in the animal shelter, the owner shall pay all fees owing to the animal control program and/or the animal shelter for harboring, caring for and maintaining the animal prior to the animal being released.

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

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-31. Destruction or confinement of animal bitten by rabid animal.

Unvaccinated animals bitten by a known rabid animal shall be immediately destroyed. If the animal has a current rabies inoculation, it shall be re-vaccinated and returned to the owner.

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-32. Area-wide emergency quarantine.

(a) When a report indicates a positive diagnosis of rabies, the county director of public health may order an area-wide quarantine for such

period, as he deems necessary. Upon invoking of such emergency quarantine, no dog, cat or other carnivores shall be taken into the streets or permitted to be in the streets during such period. During such quarantine, no dog, cat or other carnivore may be taken or shipped from the town without written permission of the animal control program, and the police department is hereby directed during such emergency to impound any dog, cat or other carnivore found running at large in the town. During the quarantine period, the animal control program or local health authorities shall be empowered to provide for a program of mass immunization by the establishment of temporary emergency rabies vaccination facilities strategically located throughout the town.

(b) In the event there are additional positive cases of rabies occurring during the period of quarantine, such period of quarantine may be extended at the discretion of the county director of public health.

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-33. Postmortem diagnosis.

(a) If an animal dies while under observation for rabies, the head of such animal shall be submitted to the State Laboratory of Public Health for rabies diagnosis.

(b) The carcasses of any animal suspected of dying of rabies shall be surrendered to the animal control program. The head of such animal shall be submitted to the State Laboratory of Public Health for rabies diagnosis.

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-34. Unlawful killing, releasing, etc. of certain animals.

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

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-35. Failure to surrender animal for quarantine or destruction.

It shall be unlawful for any person to fail or refuse to surrender any animal for quarantine or destruction as required in this article, when demand is made therefore by the animal control program.

(Ord. No. (2021)5011, 2-1-21)

ARTICLE III. IMPOUNDMENT

Sec. 3-36. Generally.

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

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-37. Notice to owner.

Immediately upon impounding an animal, the impounding officer shall make reasonable effort to notify the owner and inform such owner of the conditions whereby the animal may be redeemed. If the owner is unknown or cannot be located, notice of such impoundment shall be posted for five (5) days, or until the animal is disposed of, on a bulletin board at the animal shelter, and the time and place of the taking of such animal, together with the time and date of posting the notice shall be stated therein.

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-38. Redemption by owner generally.

(a) The owner of an animal impounded under this article may redeem the animal and regain possession thereof within five (5) days after notice of impoundment is given or posted, as required by section 3-37, by complying with all applicable provisions of this chapter and paying

all fees owing to the animal control program and/or the animal shelter for harboring, caring for and maintaining the animal.

(b) No animal owner may be permitted to adopt his own animal under the provisions of section 3-39 in order to reclaim an animal that has been impounded pursuant to state law or this article.

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-39. Destruction or adoption or unredeemed animals generally.

(a) If an impounded animal is not redeemed by the owner within the period prescribed in section 3-38, it may be destroyed in a humane manner or shall become the property of the animal shelter(s) and offered for adoption to any responsible adult who is willing to comply with this chapter. Such animal may be adopted or purchased by the first such person who pays the adoption or purchase fee.

(b) No animal which has been impounded by reason of its being a stray, unclaimed by its owner shall be allowed to be adopted from the animal shelter during a period of emergency rabies quarantine invoked pursuant to section 3-32, of this chapter, except by special authorization of the director of public health.

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-40. Suspected rabid animals not to be redeemed or adopted.

Notwithstanding any other provision of this article, animals impounded which appear to be suffering from rabies shall not be redeemed or adopted, but shall be dealt with in accordance with article II of this chapter.

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-41. Destruction of wounded or diseased animals.

Notwithstanding any other provision of this article, any animal impounded which is badly wounded or diseased (not a rabies suspect) and has no identification shall be destroyed immediately in a humane manner. If the animal has identification, the animal control program

shall attempt to notify the owner before disposing of such, but if the owner cannot be reached readily, and the animal is suffering, the animal control program may destroy the animal at its discretion in a humane manner.

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-42. Security bond for impounded animals.

Any person claiming an interest in any animal confined by animal control due to cruelty charges must post a bond by cash or corporate surety with, the town within seventy-two (72) hours of impoundment, in an amount sufficient to secure payment for all reasonable expenses incurred in providing care for the animal, including medical expenses, for a thirty-day period. However, such bond or security shall not prevent the authority having custody of the animal from disposing of such animal at the end of the thirty-day period unless the person claiming an interest posts an additional bond by cash or corporate surety with the town for another thirty-day period prior to the end of the previous thirty-day period.

The amount of the bond shall be determined by the animal control program based on actual costs of boarding and veterinary medical expenses incurred by the town. At the conclusion of the case, the bond shall be forfeited to the town unless there is a judicial determination that the owner is a fit person to own and care for the animal.

(Ord. No. (2021)5011, 2-1-21)

Sec. 3-43. Appeal of section 3-25 and dangerous animal determination.

(a) A request for appeal of civil penalties issued pursuant to section 3-25 or of a dangerous animal determination pursuant to section 3-17 must be made in writing and filed with the town clerk within five (5) business days of the action or decision complained of and must state with particularity the grounds of the appeal. The appeals board shall consist of at least one (1) assistant town manager and two (2) other employees of departments other than the police department in the town to hear appeals of

actions taken pursuant to this chapter or General Statutes section 67-4.1. This appeals board will be appointed by the town manager with appointees serving at the town manager's discretion until they are removed or ask to be replaced.

(b) The appeals board shall render a decision within three (3) business days of the hearing.

(c) If the decision is in favor of the owner, efforts to implement the sanction(s) shall cease.

(d) Decisions rendered by the appeals board apply only to the violation(s) and sanction(s) appealed and do not prevent the animal control program from enforcing subsequent violations of the same provision or any other provision.

(e) The decision of the appeals board is subject to appeal to superior court within ten (10) days in accordance with General Statutes, Section 67-4.1.

(f) The owner of the animal shall be responsible for all impoundment fees accrued during any and all appeals.

(g) If the owner fails to pay all such impoundment fees, and the town is required to pay the same, the town shall have the right to seek recovery of the same in a civil action.

(Ord. No. (2021)5011, 2-1-21; Ord. No. (2022)5100, § 8, 2-7-22)

Chapter 4

FIRE PREVENTION AND PROTECTION*

Article I. In General

- Sec. 4-1. Construction of article.
- Sec. 4-2. Authority to negotiate agreement to provide fire protection; approval of agreement; compensation for service rendered; effect of agreement.
- Sec. 4-3. Reserved.
- Sec. 4-4. Prohibition and control of open burning.
- Sec. 4-5. Conditions for open burning.
- Secs. 4-6—4-14. Reserved.
- Sec. 4-15. Enforcement of compliance with the North Carolina Fire Code.
- Sec. 4-16. Third party inspection reporting system.
- Sec. 4-17. Reserved.

Article II. Fire Department

- Secs. 4-18—4-23. Reserved.
- Sec. 4-24. Chief to investigate circumstances of fires.
- Secs. 4-25—4-34. Reserved.

Article III. Hazardous Materials Data Storage Boxes

- Sec. 4-35. Required.
- Sec. 4-36. Contents, types and location of data storage box.
- Sec. 4-37. Violations; enforcement.

***State law reference**—Fire protection, G.S. § 69-1 et seq. and § 160A-291 et seq.

ARTICLE I. IN GENERAL*

Sec. 4-1. Construction of article.

Nothing in this article shall be construed to permit burning in violation of federal or state laws or regulations.

Sec. 4-2. Authority to negotiate agreement to provide fire protection; approval of agreement; compensation for service rendered; effect of agreement.

(a) The mayor is hereby authorized to appoint one (1) or more council members to negotiate an agreement with the board of directors of the Garner Volunteer Fire Department, Inc., to provide fire protection within the municipal boundaries and service municipal fire equipment; such agreement shall be subject to approval by both the board of directors and the town council; and such compensation for said services as may be agreed upon, if any, shall not be paid to any municipal fire department officer as a salary, but shall be paid to the Garner Volunteer Fire-Rescue, Inc.

(b) Nothing in this section shall be construed to infringe upon the legal identity of the Garner Volunteer Fire-Rescue, Inc.
(Ord. of 9-14-59, § IV (Arts. 4, 5); Ord. No. 3716, § 2, 11-19-13)

Sec. 4-3. Reserved.

Editor's note—Ord. No. (2022)5091, § 2, adopted Jan. 3, 2022, repealed § 4-3, which pertained to giving false fire alarms and derived from Ord. of 9-14-59, § IV (Art. 3).

Sec. 4-4. Prohibition and control of open burning.

It shall be unlawful for any person to burn or cause to be burned any outside or open fire within the town, except fires used for outdoor cooking or recreation, without first obtaining a written permit disclosing the person authorized to burn a fire, the lot or place of the fire, the duration of the permit and any additional information necessary for an adequate review of the permit as determined by the permit-issuing

*Cross reference—Fireworks, § 18-13 et seq.

authority. The chief of the fire department is authorized to issue permits for open burning subject to the provisions of section 4-5 of this article. The fire chief, or his designated agent, is also responsible for any investigations to determine whether open burnings are conducted in compliance with this section. If the fire chief determines that an open burning constitutes a hazard or nuisance, he/she may seek assistance from the chief of police for the enforcement of this section and section 4-5. A violation of this section is punishable as a misdemeanor with a maximum fine of one hundred dollars (\$100.00). (Ord. No. 1737, § 1, 9-8-81; Ord. No. 3716, § 2, 11-19-13; Ord. No. (2022)5091, § 1, 1-3-22)

Editor's note—Sections 1—3 of Ord. No. 1737, enacted Sept. 8, 1981, repealed §§ 4-4—4-6 relative to open burning, and §§ 1 and 2 enacted, in lieu thereof, new §§ 4-4 and 4-5 as herein set out. The former sections derived from Ord. No. 1157, §§ 1—3, enacted April 18, 1966.

Sec. 4-5. Conditions for open burning.

No person shall burn or cause to be burned any trash or rubbish, leaves, tree branches, yard trimmings, old building materials, heavy oils, asphaltic materials, natural or synthetic rubber, or other material of any kind within the town, except as hereinafter permitted in this section. Under no circumstances shall any person burn or cause to be burned any open fire within the fire limits of the town.

(a) Open burning for the purposes of land clearing or right-of-way maintenance will be permitted only if the following conditions are met:

- (1) Prevailing winds at the time of burning must be away from any densely occupied or developed area, the ambient air of which may be significantly affected by smoke, fly-ash, or other air contaminants from the burning;
- (2) The location of the burning must be at least one thousand (1,000) feet from any dwelling located in a predominately residential area other than a dwelling or structure located on the property on which the burning is conducted;

- (3) Materials other than plant growth may not be burned;
- (4) In order to reduce the amount of smoke produced and to promote clean burning of brush, limbs, tree stumps and other plant growth, the amount of dirt on the material and the material to be burned must be minimized;
- (5) Initial burning may generally be commenced only between the hours of 9:00 a.m. and 3:00 p.m., and no combustible material may be added to the fire between 3:00 p.m., of one (1) day and 9:00 a.m. of the following day, except that under favorable meteorological conditions derivations from the above-stated hours of burning may be granted by the North Carolina Division of Environmental Management, Raleigh Regional Office, Air Quality Section. It shall be the responsibility of the owner or operator of the open burning operation to obtain written approval from such agency for burning during periods other than those specified above.
- (b) This section shall not prohibit open fires purposely set for the instruction and training of fire-fighting personnel of any fire department.
- (c) Air curtain burning is permitted if the following conditions are met:
 - (1) Definition: Air curtain burning (also referred to as pit burning) is defined as being the type of controlled burning set forth in North Carolina Administrative Code, Section 32, Environmental Management, subsection .1904.
 - (2) Air curtain burning shall be subject to all requirements of N.C.A.C. Section 32, .1904 and of this Section 4-5 except subsection (a)(2); in the event of any conflict between N.C.A.C. Section 32, .1904, this section shall be controlling.

- (3) Instead of one thousand (1,000) feet, properly conducted curtain burning may be conducted no less than seven hundred (700) feet from any dwelling, group of dwellings, or commercial or institutional establishment, or other occupied structure not located on the property on which the burning is conducted.

(Ord. No. 1737, § 2, 9-8-81; Ord. No. 3249, § 1, 7-22-03)

Note—See the editor's note following § 4-4.

Cross reference—Fire limit zone described, § 19-1.

Sec. 4-6. Reserved.

Note—See the editor's note following § 4-4.

Sec. 4-7. Reserved.

Editor's note—Ord. No. 3716, § 2, adopted Nov. 19, 2013, repealed former § 4-7 which pertained to fire inspection schedule, and derived from Ord. No. 2561, § 1 adopted Nov. 17, 1992.

Secs. 4-8, 4-9. Reserved.

Sec. 4-10. Reserved.

Editor's note—Ord. No. 3716, § 2, adopted Nov. 19, 2013, repealed former § 4-10 which pertained to fire inspection or re-inspection fee, and derived from Ord. No. 3426, § 1 adopted Sept. 5, 2006.

Secs. 4-11—4-14. Reserved.

Sec. 4-15. Enforcement of compliance with the North Carolina Fire Code.

(a) Any violation of the North Carolina Fire Code, including any failure to cease such violation or to correct such violation, or otherwise comply with any corrective order duly ordered by a town fire inspector, within the prescribed time period, and any failure to pay fire inspection or re-inspection fee, shall be a violation of this article.

(b) Persons subject to enforcement of this section include the following:

- (1) Any such person owning, leasing, using, managing, or occupying any building, structure, or land wherein or whereon

there exists any violation of this article, or any lawful order issued or plan approved hereunder; or

- (2) Any architect, builder, contractor, engineer, agent, or other person who shall elect or use or acts in concert, participates, directs or assists in the creation or maintenance of a violation of this article or any lawful order issued or plan approved hereunder; or
- (3) Any person who shall omit, neglect, or refuse to do any act provided for in this article, or any lawful order issued or plan approved hereunder.

(c) A violation of this section is punishable as a misdemeanor with a maximum fine of one hundred dollars (\$100.00).

(Ord. No. 3426, § 2, 9-5-06; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 4-16. Third party inspection reporting system.

Records of all required monthly, quarterly, and annual system inspections, tests, and maintenance, as required by section 604.6, 901.6, 904.11, 909.20 and their respective referenced National Fire Protection Association standards shall be provided to the Town of Garner through an approved third party inspection reporting system and reporting parties shall pay any fees associated with that service to the town's third party service provider.

(Ord. No. 3824, § 1B, 8-1-16)

Sec. 4-17. Reserved.

ARTICLE II. FIRE DEPARTMENT*

Secs. 4-18—4-23. Reserved.

Editor's note—Ord. No. 3716, § 2, adopted Nov. 19, 2013, repealed former §§ 4-18—4-23, which pertained to composition; appointment of chief, assistant chief; tenure; chief to be accountable to, make reports to town council or manager; assistant chief accountable to chief; chief to keep

***State law reference**—Authority to establish, organize, equip and maintain a fire department and to prescribe the duties of the department, G.S. § 160A-291.

records; chief to report quarterly to town council or manager; contents of report, and derived from an ordinance adopted Sept. 14, 1959, § II(Arts. 1—3), III(Arts. 4—6).

Sec. 4-24. Chief to investigate circumstances of fires.

The fire chief is hereby required to assist the proper authorities in suppressing the crime of arson by investigating or causing to be investigated the causes, origin and circumstances of all fires.

(Ord. of 9-14-59, § III (Art. 1))

Secs. 4-25, 4-26. Reserved.

Editor's note—Ord. No. 3716, § 2, adopted Nov. 19, 2013, repealed former §§ 4-25 and 4-26, which pertained to chief authorized to make inspections and require abatement of hazards; duty to abate hazards and notify the chief; chief to act as custodian of equipment, etc., and derived from an ordinance adopted Sept. 14, 1959, § III(Arts. 2, 3, 6).

Secs. 4-27—4-34. Reserved.

ARTICLE III. HAZARDOUS MATERIALS DATA STORAGE BOXES

Sec. 4-35. Required.

All commercial enterprises or industries within the Town of Garner which use, store, or manufacture on-site hazardous materials that must be reported under state right-to-know laws (General Statutes, Section 95-173 et seq.) or under title III of the Federal Super Fund Amendments and Reauthorization Act and the regulations promulgated thereunder must have an approved on-site hazardous materials data storage box at each facility where hazardous materials may be found.

(Ord. No. 2538, § 1, 3-2-92)

Sec. 4-36. Contents, types and location of data storage box.

(a) The box shall contain current specific information to assist fire departments and hazardous materials teams responding to emergencies at the facility, including, but not limited to, facility maps or plans showing the type and location of hazardous materials, Tier II forms, lists of chemicals with CAS numbers, telephone

numbers for facility employees and other persons to be contacted in case of such emergencies. The data storage box shall contain keys providing access to secured portions of the facility.

(b) All information requested on Wake County Emergency Management data storage sheets must be provided on the forms provided by Wake County or in a substantially similar format and must be placed in the data storage box. Such information must be updated continuously to ensure its accuracy.

(c) The data storage box itself shall be the type designated and approved by the Wake County Local Emergency Planning Committee and shall be located at the primary vehicular entrance, outside any security fence that may be surrounding the facility and visible and accessible to emergency responders. If the facility staffs a security checkpoint, the data storage box may be located at the security checkpoint, but located outside any surrounding security fence and shall be visible and accessible to all emergency responders. The data storage box may be mounted to a post of other stand alone structure, as long as the above criteria are met. The data storage box may be mounted to a structure that is located outside the secured perimeter, but shall not be mounted to the exterior wall of the facility or inside the facility housing the hazardous materials.

(Ord. No. 2530, § 1, 3-2-92; Ord. No. 3646, § 1, 12-20-11)

Sec. 4-37. Violations; enforcement.

(a) Violations of this chapter shall be a misdemeanor as provided under General Statutes, Section 160A-175 and General Statutes, Section 14-4. Each day's continuing violation shall constitute a separate offense as provided by General Statutes, Section 160A-175(g).

(b) The municipality may also seek injunctive relief and other appropriate equitable remedies to ensure compliance with this chapter.

(c) Enforcement actions may be initiated by the Wake County Fire Marshal, the Wake County Emergency Management Director, the chief of

the Garner Fire Department, Director of Inspections and or Chief Fire Inspector or their designee.

(d) The fire inspector fees and re-inspection fees may be collected as a civil penalty by the town.

(Ord. No. 2530, § 1, 3-2-92; Ord. No. 3426, §§ 3, 4, 9-5-06; Ord. No. 3824, § 1A, 8-1-16; Ord. No. (2022)5091, § 1, 1-3-22)

Chapter 5

GARBAGE, REFUSE, RUBBISH AND WASTE*

***Editor's note**—Ord. No. 1828, § 1, adopted Feb. 7, 1983, repealed Ch. 5, §§ 5-1–5-7, and enacted a new Ch. 5 as herein set out in §§ 5-1–5-8, with certain nonsubstantive changes made by the editor for purposes of maintaining Code format. Former Ch. 5 contained similar provisions and derived from the following legislation:

Ord. No.	Section	Date	Ord. No.	Section	Date	Ord. No.	Section	Date
1453	1	8- 2-76	1716	1	5-19-81	1766	1	2-16-82
1465	1, 2	1- 3-77	1732	1–4	2-16-82	1813	1, 2	10-19-82
1596	1	6-25-79	1765	2, 3	2-16-82			

Cross reference—Open burning, § 4-4 et seq.

Sec. 5-1. Definitions.

The following terms, for the purposes of this chapter, have the meanings indicated in this section:

Ashes shall mean and include the waste products from coal, wood and other fuels used for cooking and heating from all private residences.

Bulky wastes shall mean and include stoves, refrigerators, water tanks, washing machines, furniture and other waste materials other than construction debris, dead animals, hazardous wastes or stable matter with weights or volumes greater than those allowed for mobile refuse containers.

Bundle shall mean and indicate tree, shrub and brush trimmings or magazines, etc., securely tied together forming an easily handled package not exceeding four (4) feet in length or sixty (60) pounds in weight.

Commodity shall mean recyclable material that can be sold in a spot or future market for processing and use or reuse. Each commodity shall retain its own identity and be kept separate.

Commodity buyer shall mean a buyer or processor selected by the town or contractor, pursuant to contract documents, of recyclable materials delivered by contractor.

Construction rubbish shall mean refuse from the construction, remodeling and repair of houses, commercial buildings and other structures, including, but not limited to, excavated earth, stones, brick, plaster, lumber, concrete, shingles, insulation and waste parts generated by installation and replacements of structures and facilities.

Contractor shall mean and include the person, corporation or partnership performing refuse collection and disposal under contract with the town.

Dead animals shall mean and include animals (dogs and cats) or portions thereof equal to or greater than ten (10) pounds in weight that have expired from any cause, except those slaughtered or killed for human consumption.

Disposal site shall mean and include a refuse depository, including, but not limited to, sanitary landfills, transfer stations, incinerators and waste

processing/separation centers licensed, permitted or approved to receive for processing or final disposal of refuse and dead animals by all governmental bodies and agencies having jurisdiction and requiring such license, permits or approvals.

Garbage shall mean and include any and all dead animals of less than ten (10) pounds in weight, except those slaughtered for human consumption; every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains, or other animal or vegetable matter which is likely to attract flies or rodents, except any matter included in the definition of bulky waste, construction rubbish, dead animals, hazardous wastes, rubbish or stable matter.

Hazardous wastes shall mean and include any chemical compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or appropriate agency of the state to be "hazardous," as that term is defined by or pursuant to federal or state law.

Large container shall mean a large-capacity steel refuse storage container designed for pickup and dumping by front-loading packers.

Mobile refuse containers shall mean rolling, plastic and steel refuse containers with a capacity of either eighty (80) or ninety (90) gallons for storage of residential and small business refuse and capable of being dumped by the equipment used for collection.

Producer shall mean and include an occupant or a service location that generates refuse.

Public works director shall mean the public works director of the town or such successor position as shall be established.

Recyclable materials shall mean those commodities which are collected by the town pursuant to contract documents, including newsprint, glass, metals, plastics or any other commodity established by contract.

Recycling container shall mean a receptacle designed for the purpose of curbside collection of recyclable materials.

Refuse shall mean both putrescible and nonputrescible solid waste, including, but not limited to, garbage, trash, yard waste, bulky waste and construction rubbish.

Rubbish shall mean all waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, paper, used and discarded clothing, glass, cold ashes, and any other waste materials not included in the definition of bulky waste, construction rubbish, dead animals, garbage, hazardous wastes or stable matter.

Sanitary shall mean conditions or methods promoting or ensuring cleanliness, health, hygiene and the prevention of disease.

Sharps shall mean needles or syringes used for medical purposes generated from private residences.

Stable matter shall mean all manure and other waste matter normally accumulating in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

Trash shall mean nonputrescible solid waste, including, but not limited to, papers, small boxes, rags, cold ashes, glass, rimless tires and other rubbish in small quantities normally generated by occupied premises.

Waste shall mean and include any useless, unused, unwanted or discarded materials resulting from community activities, including, but not limited to, cold ashes, garbage and trash and yard waste.

Yard waste shall mean solid waste consisting of vegetative matter resulting from landscaping maintenance, including, but not limited to, leaves, grass, twigs, limbs, hedge trimmings, plant trimmings, hay, straw, pine straw, pine cones, and shrubs.

(Ord. No. 1828, § 1, 2-7-83; Ord. No. 2438, § 1, 8-6-90; Ord. No. 2563, § 1, 12-22-92; Ord. No. 2589, § 1, 7-20-93; Ord. No. 3021, § 1, 4-17-01)

Sec. 5-2. Permits required for private collectors.

No person, firm or organization shall engage in the business of collecting, transporting or disposing of any waste within the town limits without first obtaining a permit to do so from the office of the town manager. Permits shall be granted if the town manager or designated representative shall find that the applicant has adequate equipment, plans, and resources to ensure sanitary collection and disposal of the waste to be collected.

(Ord. No. 1828, § 1, 2-7-83; Ord. No. 3021, § 1, 4-17-01)

Sec. 5-3. Commercial (large volume) refuse collection.

(a) *When large containers required.* When refuse regularly accumulates at multifamily residential, office, institutional, educational, commercial or industrial uses in a volume greater than one hundred eighty (180) gallons in a period of one (1) week (7 days) or less, the generator of this large volume of refuse is required to store said refuse in large containers of not less than four (4) nor more than eight (8) cubic yard capacity and to provide a sufficient number of containers to store a four-day accumulation of refuse.

All refuse generated by uses in high-density developments, such as business districts, apartment complexes, office parks, shopping centers, commercial service centers, and industrial parks, shall be stored in and collected from large containers.

(b) *Shared storage permissible.* Users required to provide large containers and who are located in sufficiently close proximity to each other may, with the approval of the director of public works, share a container or containers; provided, that adequate sanitary storage capacity is furnished at all times to store a four-day combined accumulation of refuse generated by all the sharing users.

(c) *Container maintenance, access.* Each user required to provide large containers shall keep the containers maintained in good operating condition, shall keep the exterior of the container painted and free from rust and defacing marks,

shall ensure that the area around the container is kept free from refuse and litter, and shall provide for adequate access to the containers for collection equipment.

(d) *Refuse and weight restrictions.* No materials originating, transported or collected from locations outside the town, including discarded construction and roofing materials and rural residents' garbage, may be placed in the containers by any person. The following substances and materials are also prohibited from being placed in the containers and are not eligible for collection: Vehicle tires which are not cut and shredded, volatile and caustic substances, animal wastes, and uncompactable materials. Trim-mings from butchered meat, poultry, and fish shall be tightly sealed within plastic bags or other firmly sealed enclosures before being placed in the containers. The aggregate weight of container and refuse contained therein shall not exceed five thousand (5,000) pounds.

(e) *Administrative determinations.* The director of public works shall make all determinations regarding whether the volume of refuse being generated requires the use of large containers, whether containers and their environs are properly maintained and located so as to provide adequate access as required by paragraph (c) and whether provided materials are being placed in containers for collection.

(f) *Provision of commercial (large volume) collection.* Each user required by the town to provide large containers for refuse collection, as set out above, shall be responsible for the removal of that refuse in conformance with this section. Such removal shall not be performed between 7:00 p.m. and 7:00 a.m. in any location which is within one thousand (1,000) feet of any residence. (Ord. No. 1828, § 1, 2-7-83; Ord. No. 2366, § 2, 6-20-89; Ord. No. 2937, § 1, 12-6-99; Ord. No. 3021, § 1, 4-17-01)

Sec. 5-3.1. When small containers are permitted.

(a) When occupants of properties described in section 5-3(a) are permitted to use mobile containers pursuant to section 5-3(e), the owner of the property and the generators of refuse from that

property (e.g., the occupants of the property) shall assure, jointly or separately, that the container location has adequate access for collection pursuant to section 5-3(c) and the generators of the refuse shall discard the refuse as provided by section 5-3(d), section 5-6 and section 5-6.1.

(b) When mobile containers have been determined by the director of public works to be permissible pursuant to section 5-3(e), the refuse generators (e.g., occupants), shall pay the user fee for a mobile refuse container as set forth in the adopted fee schedule. The charge shall be payable at the time of issuance of a privilege license, where such license is required, or within ten (10) days of receipt of written notice from the town. Shared storage of mobile containers is permissible on the same basis as shared storage of large volume refuse containers as set forth in section 5-3(b), and each user shall be responsible for removal of refuse in conformance with section 5-3.

(Ord. No. 2788, § 1, 5-5-97; Ord. No. 3021, § 1, 4-17-01; Ord. No. 3235, § 3, 3-18-03; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 5-4. Construction rubbish removal and disposal.

Construction rubbish shall be promptly collected, removed and disposed of by the builder or contractor generating the rubbish. If the builder or contractor fails to promptly dispose of construction rubbish, the property owner shall be required to do so.

(Ord. No. 1828, § 1, 2-7-83; Ord. No. 3021, § 1, 4-17-01)

Sec. 5-5. Residential garbage collection.

(a) All occupants of single-family residences and of attached single-family dwellings not exceeding four (4) dwelling units, with a ground-level individual entrance for each unit, shall deposit all garbage in mobile refuse containers provided by the town and place said containers adjacent to the street for collection on days designated by the public works director for pickup. Resident-owned townhouse and condominium complexes may elect this form of collection or the large

container collection described in section 5-3. The public works director may provide this form of collection to small offices and businesses with a low volume of refuse if he deems this system more sanitary and efficient. The mobile refuse containers shall be placed within five (5) feet of the curb or street edge or in an accessible location approved by the public works director, but shall not be placed in the street.

(b) The mobile refuse containers and, where used, recycling containers shall be placed in the required location for collection no earlier than 7:00 p.m. on the day preceding a designated pickup day and shall be removed from the curbside location no later than 7:00 p.m. after the container has been emptied. Except during those hours, the mobile containers and all other refuse containers shall be kept in a location no closer to the street than the front line of the residence.

(c) The mobile refuse containers shall remain the property of the town and are provided and assigned to residences for the health, safety, convenience and general welfare of the occupants. Mobile refuse containers which are damaged, destroyed or stolen through abuse, neglect or improper use by the occupant-users shall be replaced by the town at the expense of the occupants or the owner of the residence. Mobile refuse containers which are damaged in the course of normal and reasonable usage or which are damaged, destroyed or stolen through no abuse, neglect or improper use of the occupant-users or residence owner shall be repaired or replaced by the town at no charge to the occupant-users or residence owners. Said containers shall not be damaged, destroyed, defaced or removed from the premises by any person. Markings and identification devices on said containers, except as placed or specifically permitted by the town, are expressly prohibited and shall be regarded as damage to the containers. The occupant-user shall maintain the container in a clean and odor-free condition.

(d) Mobile refuse containers shall be used for the disposal of residential garbage and small quantities of trash only. Rimless tires, hazardous waste, yard waste, bulky waste, construction rubbish, hot coals and recyclable materials shall

not be placed on or within the containers. Violation of these prohibitions will be treated as abuse and improper use of the container. In addition, stable matter and disposable diapers shall not be placed within a container for collection unless the material is first thoroughly sealed within a plastic or paper bag.

(e) In order to protect the public health, ensure adequate solid waste collection, and prevent undue hardships to the aged, handicapped and disabled, the public works director is authorized to vary the requirements of this section relating to placement of the container at a curbside location for collection after conducting a thorough investigation and finding that there is no person living within a particular residence unit who is physically capable of placing the container in the required location for pickup.

(f) There shall be a user fee, as set out in the adopted fee schedule, providing for the mobile refuse container for each new residential unit or other unit of building construction, where the use of a mobile refuse container will be used as specified in paragraph (a) of this section, payable upon issuance of a building permit for said unit of construction.

(Ord. No. 1828, § 1, 2-7-88; Ord. No. 1869, 7-19-83; Ord. No. 2338, § 3, 3-21-89; Ord. No. 2357, § 1, 5-16-89; Ord. No. 2366, § 1, 6-20-89; Ord. No. 2438, § 1, 8-6-90; Ord. No. 2563, § 1, 12-22-92; Ord. No. 3021, § 1, 4-17-01; Ord. No. 3235, § 1, 3-18-03; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 5-6. Residential refuse collection.

(a) In addition to residential garbage collection as described in section 5-5, subject to schedule adjustments resulting from holidays, residents of the town shall be entitled to weekly curbside refuse collection of up to one (1) truckload (six (6) cubic yards) of trash and yard waste and sixty (60) pounds of bulky waste. The cost of such collection to be paid from the general tax revenues of the town.

Residents receiving collection of more than one (1) truckload of refuse per week shall pay a

special collection fee for each additional truckload or portion thereof, as set out in the adopted fee schedule.

(b) In order to receive refuse collection service, residents shall prepare refuse for collection as follows:

- (1) All trash, if dry and nonperishable, shall be bagged, bundled, packaged, boxed or otherwise bound, tied or secured into one-man loads, and then placed beside the mobile refuse container adjacent to and behind the curb or in front of ditch adjoining the street. Plastic bags used for the bagging of trash to be placed beside the mobile refuse container must be clear. Paper bags shall not be used for the bagging of trash to be placed beside the mobile refuse container. A one-man load shall not exceed four (4) feet in length and/or sixty (60) pounds in weight.
- (2) Scrap lumber and wood in less than four (4) foot lengths, boxes, paper cartons and similar materials shall be collapsed and compacted, made free of exposed nail and staple points, and piled neatly next to the curb or street.
- (3) Yard waste materials shall be kept separate from, and shall not be mixed with any other solid waste material. Yard waste materials such as grass, twigs, hedge trimmings, plant trimmings, hay, straw, pine straw and pine cones shall be placed in reusable containers not larger than thirty-two (32) gallons or clear plastic bags in weights not heavier than sixty (60) pounds. Yard waste materials such as tree limbs, loose twigs, shrubs, plant or hedge clippings with trunk diameters of one and one-half (1½) inches or less shall be tied securely in bundles not exceeding four (4) feet in length and/or sixty (60) pounds in weight, stacked with the butt ends toward the street. Tree limbs, shrubs, plant or hedge clippings with trunk diameters of one and one-half (1½) inches or more may be excluded from the bundling or packaging requirements when cut properly into four (4) foot maximum lengths, sixty (60) pounds or less per piece, and stacked with the butt ends toward the street. Leaves and pine straw shall be bundled, packaged or boxed into one-man loads and placed beside the mobile refuse container adjacent to and behind the curb or in front of ditch adjoining the street except during the portion of each year when special leaf collection equipment is in operation, which shall be from November through February. During that portion of each year, leaves and pine straw may be piled loosely adjacent to and behind the curb or in front of ditch (not in the street, gutter or roadside ditch) for collection by special equipment. Loose piles of leaves and pine straw will not be collected unless they are free of trash such as broken glass, rocks, cuttings, cans or other debris that might damage collecting equipment.
- (4) Items of bulky waste must be placed adjacent to and behind the curb or in front of ditch line. The town will not collect any appliance until all doors have been removed in accordance with state laws. Bulky waste items from nonresidential premises shall be disposed of by the owner.
- (5) Dead animals such as cats and dogs, except those from animal clinics, will be collected from the town right-of-way by town staff on a call basis during regular working hours. Contractor will be required to provide and to service a dumpster at the public works site regularly as requested by staff.
- (6) All sharps shall be placed in a sealed, puncture-proof container prior to disposal.
- (7) It is not the intent of this section or any other section of the Town Code that the town or its contractor shall be obligated to collect and dispose of construction rubbish left by commercial builders, to collect and dispose of trees, limbs and stumps left by commercial tree surgeons,

or to collect and dispose of any similar materials resulting from specialized, intermittent commercial activities.

(8) It shall be the responsibility of residents or property owners who place residential trash or bulky waste at the curb or street edge for special collection by the town as set forth in paragraph (a) to notify the town of their need for special collection service and to arrange for payment of the applicable fees within one (1) working day after placing the trash or bulky waste at the curb or street edge. Where trash or bulky waste remains at the curb or street edge for more than one (1) working day without request to the town for special collection service, the town shall be authorized to collect said trash or bulky waste and to bill the resident or property owner for the collection in accordance with the adopted fee schedule. (Ord. No. 1828, § 1, 2-7-83; Ord. No. 1879, § 1, 9-20-83; Ord. No. 1883, § 1, 9-26-83; Ord. No. 1886, § 1, 10-3-83; Ord. No. 2438, § 1, 8-6-90; Ord. No. 2563, § 1, 12-22-92; Ord. No. 2589, § 1, 7-20-93; Ord. No. 2850, § 1, 6-16-98; Ord. No. 3021, § 1, 4-17-01; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 5-6.1. Special collections of residential refuse.

(a) Residential property owners or occupants receiving curbside trash collection and disposal service shall pay a fee to the town, as set forth in the adopted fee schedule, or as set by contractor, depending on who makes the pick up, for each six-cubic-yard truckload or portion of such truckload of trash collected in excess of one (1) truckload per week. Special collection does not refer to improperly prepared trash or yard waste.

(b) Residential property owners or occupants receiving special curbside collection of bulky waste weighing more than sixty (60) pounds shall pay a fee to the town as set out in the adopted fee schedule or as set by the contractor, depending on who makes the pick up. (Ord. No. 1887, §§ 1—4, 10-3-83; Ord. No. 2357, § 1, 5-16-89; Ord. No. 2438, § 1, 8-6-90; Ord. No.

2850, § 2, 6-16-98; Ord. No. 3021, § 1, 4-17-01; Ord. No. 3235, § 2, 3-18-03; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 5-6.2. Special projects.

The town council may, by resolution, establish town wide cleanup projects and waive the requirements of subsections 5-6(a), (b)(1) through (5), (b)(7) and section 5-6.1.

(Ord. No. 2511, § 1, 9-17-91; Ord. No. 2563, § 1, 12-22-92; Ord. No. 3021, § 1, 4-17-01)

Sec. 5-7. Noncurbside refuse collections.

Noncurbside refuse pickups will be made by the town or its contractor upon request and payment of a special refuse collection fee.

(Ord. No. 1886, § 1, 10-3-83; Ord. No. 2438, § 1, 8-6-90; Ord. No. 3021, § 1, 4-17-01)

Editor's note—Prior to amendment by Ord. No. 1886, § 1, adopted Oct. 3, 1983, § 5-7 concerned accumulation of garbage, refuse, etc., and derived from Ord. No. 1828, § 1, adopted Feb. 7, 1983. See § 5-8.

Sec. 5-8. Accumulations of garbage, refuse, rubbish and waste prohibited.

No property owner or tenant shall allow the accumulation of garbage, refuse, rubbish or wastes upon property owned or occupied by him so that such accumulation is dangerous or prejudicial to the public health.

Where such an accumulation exists for any reason, the town may summarily remove, abate or remedy such accumulation and the expense of the action shall be paid by the person in default, and if not paid, shall be a lien upon the land or premises where the trouble arose and shall be collected as unpaid taxes.

(Ord. No. 1886, § 1, 10-3-83; Ord. No. 3021, § 1, 4-17-01)

Editor's note—Prior to amendment by Ord. No. 1886, § 1, adopted Oct. 3, 1983, § 5-8 concerned late payment charges and derived from Ord. No. 1828, § 1, adopted Feb. 7, 1983. See § 5-9.

Sec. 5-9. Late payment charges.

The payment of charges for commercial refuse collections or special residential trash collections shall become past due twenty-five (25) days after the date of the bill, or the first working day thereafter. Unpaid balances remaining due after that date shall accrue a late payment charge of one and one-half (1½) percent per month. (Ord. No. 1886, § 1, 10-3-83; Ord. No. 3021, § 1, 4-17-01)

amended to add a new paragraph to read as follows...." Since § 5-8 contained provisions prohibiting the accumulation of garbage, refuse, rubbish and waste and not enforcement provisions, the editor, at his discretion, has redesignated these provisions as a new § 5-11.

Sec. 5-10. Storage in public or private containers regulated.

(a) Small volume containers, such as sidewalk receptacles or public park receptacles, provided by the town for the incidental disposal of solid waste by the general public shall be used only for that purpose. Likewise, large volume containers provided by the town for the disposal of waste generated by town activities shall be used only for the disposal of such wastes. Use of these facilities by persons for unauthorized solid waste disposal is strictly prohibited and will constitute a misdemeanor offense as provided by section 1-8 of this Code.

(b) Containers provided by either the town or other persons for the express purposes of collecting recyclable materials, and clearly marked as such, shall be used only for the storage and collection of the materials so designated on the container. Use of these containers for storage, collection, or disposal of garbage, trash, refuse, or other material not collected as recyclable material from the container is expressly prohibited and will constitute a misdemeanor offense as provided by section 1-8 of this Code. (Ord. No. 2745, § 1, 7-16-96; Ord. No. 3021, § 1, 4-17-01)

Sec. 5-11. Penalty for violation.

Violation of this chapter shall be punishable by imposition of a civil penalty as specified in section 1-8 per day for each day the violation continues, or by injunctive relief, or by a combination of remedies. (Ord. No. 2788, § 2, 5-5-97; Ord. No. 3021, § 1, 4-17-01; Ord. No. (2022)5091, § 1, 1-3-22)

Editor's note—Ord. No. 2788, § 2, adopted May 5, 1997, provided "...that section 5-8, relating to enforcement, shall be

Chapter 6

HEALTH AND SANITATION GENERALLY*

Article I. In General

Secs. 6-1—6-15. Reserved.

Article II. Noxious Weeds and Grass and Similar Nuisances

- Sec. 6-16. Procedures in article not exclusive.
- Sec. 6-17. Nuisances declared.
- Sec. 6-18. Duty to cause investigation of possible nuisances.
- Sec. 6-19. Nuisance abatement inspection fee.
- Sec. 6-20. Duty to give notice of existence of nuisance and require abatement.
- Sec. 6-21. Abatement of nuisance by town; violator may have town abate nuisance.
- Sec. 6-22. Cost of nuisance abatement to be charged to owner of premises; statement of charges.
- Sec. 6-23. Lien created upon failure to pay nuisance abatement costs.
- Sec. 6-24. Nonconformities.
- Sec. 6-25. Annual notice to chronic violators of public nuisance ordinances.
- Sec. 6-26. Civil penalty provided.
- Sec. 6-27. Alternative nuisance abatement.
- Sec. 6-28. Enclosing structures.
- Sec. 6-29. Boarding up residential structures by owners.

***Cross references**—Animals and fowl, Ch. 3; garbage, refuse, rubbish and waste, Ch. 5; water and sewers, Ch. 17.
State law reference—General authority for town to pass ordinances relative to public health, G.S. § 160A-174.

ARTICLE I. IN GENERAL

Secs. 6-1—6-15. Reserved.

ARTICLE II. NOXIOUS WEEDS AND GRASS AND SIMILAR NUISANCES*

Sec. 6-16. Procedures in article not exclusive.

The procedures set forth in this article shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances, and this article shall not prevent the town from proceeding in a criminal action against any person violating the provisions of this article as provided in General Statutes, section 14-4.

(Ord. No. 1198, § 7, 6-17-69)

Sec. 6-17. Nuisances declared.

The following enumerated and described conditions are hereby found, deemed and declared to constitute a detriment, danger and hazard to the 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 and the creation, maintenance or failure to abate any nuisances is hereby declared unlawful:

- (1) Any condition which is a breeding ground or harbor for mosquitoes or a breeding ground or harbor for rats, snakes, or other pests, or has the potential for becoming a breeding ground or harbor for such pests;
- (2) A place of heavy growth of weeds or grass over twelve (12) inches in height, provided, however, that for purposes of this subsection the term "grass" refers to turf grasses which in common usage and custom are generally mowed to a height of significantly less than twelve (12) inches, and this subsection does not apply to

plant material within the general botanical category of grasses which naturally grow to and are customarily maintained at heights in excess of twelve (12) inches.

- (3) A place overgrown with (a) vines, shrubs or other vegetation or (b) accumulated yard waste over eight (8) inches in height;
- (4) A place of growth of noxious vegetation, including poison sumac (*Rhus vernix*), poison ivy (*Rhus radicans*) or poison oak (*Rhus toxicodendron*), in a location likely to be accessible to the general public;
- (5) An open place of collection of water for which no adequate natural drainage is provided and where insects tend to breed or which is or is likely to become a nuisance or a menace to public health;
- (6) An open place of concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, trash, refuse, brush, old clothes, rags or any other combustible materials or objects of a like nature;
- (7) Is an open place of collection of garbage, food waste, animal waste or any other rotten or putrescible matter of any kind;
- (8) An open accumulation of construction demolition debris, provided that if the same is in a dumpster, trailer or truck bed, it shall not be considered to be "open."
- (9) Hides, dried or green, provided the same may be kept for sale in the town when thoroughly cured and odorless;
- (10) Any furniture, appliances, automotive parts or pieces or other wood or metal products of any kind or nature openly kept which have jagged edges of metal or glass, or areas of confinement, or areas which may provide a habitat for rats, snakes, insects or other pests;
- (11) Any improper or inadequate drainage on private property which causes flooding, interferes with the use of, or endangers

***Cross reference**—Sight obstructions at intersections, § 15-28 et seq.

State law reference—Authority for town to abate public health nuisances, G.S. § 160A-193.

in any way the streets, sidewalks, parks or other town-owned property of any kind;

- (12) Any stormwater retention or detention pond or other impoundment device or stormwater quality control device, which is operating improperly; provided further, that this subsection applies in the town's extraterritorial jurisdiction as well as within the town limits;
- (13) Any storm drain, sewer manhole, abandoned well or other private or public facility which is not properly covered with a grate or other means to remove any hazard to pedestrians or motor traffic;
- (14) Any ditch, trench or below ground portion of a construction project which remains open for more than fourteen (14) days without being completed or which is not protected with barricades, flags or other means so as to constitute a hazard to pedestrians or motor traffic;
- (15) Failure to clean or clear a public street of mud and debris related to a construction, timbering or other similar land use project within twelve (12) hours after notification by the town manager or his designee for major and minor thoroughfares or within twenty-four (24) hours after such notification for collector and local streets; however, if it is found by the town manager or his designee that the situation is causing a clear and present danger or hazard to traffic or the general public, such cleaning or clearing may be required to take place as soon after notification as practicable;
- (16) Any condition which violates the rules and regulations of the Wake County Health Department;
- (17) Dead or dying trees which because of their condition and location near public rights-of-way and easement, including streets, sidewalks, bikeways and greenways, constitute a potential hazard to pedestrian or motor traffic. (The abate-

ment shall include such portion of the trunk, as well as the limbs, as ordered by the building inspector. Where the opinion of an arborist is required to determine the condition of the tree, the cost shall become a lien pursuant to section 6-23.)

- (18) A structure which is not fully enclosed due to casualty or deterioration of glazing, doors or other building components sufficient to deter unauthorized access and prevent the entry of rain;
- (19) A residential structure which is boarded up without having been ordered by a building inspector, or pursuant to a permit, except where boarded up in emergency preparedness for an imminent disaster such as a hurricane; or
- (20) A place of heavy growth of vines, shrubs, noxious vegetation, or weeds or grasses over twelve (12) inches in height, which lies between the abutting property line and the curb, or if there is no curb, the edge of pavement, of the nearest street.
- (21) Combustible landscaping materials prohibited:
 - a. No pine straw or other combustible landscaping materials with a fire rate of spread more than twenty-four (24) inches per minute shall be placed, kept, or stored within ten (10) feet of any buildings with combustible exterior construction.
 - b. This provision shall not apply to one- and two-family dwellings as defined in Section R101.2 of the North Carolina Residential Building Code, as the same may be amended; nor shall it apply to pine straw falling from trees located on the same parcel as the dwelling.

The owner or occupant of a property which is subject to this subsection may obtain a grace period of up to four (4) months upon the showing of good faith efforts to comply;

- (22) Any other condition specifically declared to be a danger to the public health, safety, morals and general welfare of inhabitants of the city and a public nuisance by the town council, which proceeding may be initiated by the town manager or his designee before the council after giving written notice thereof. Such notice shall state the condition existing, the location and that the council will be requested on a day certain, after a public hearing at which the person notified may appear and be heard, to declare that the conditions existing constitute a danger to the public health, safety, morals and general welfare of the inhabitants of the city and a public nuisance. After such declaration by the council in the form of an ordinance, the condition will be abated as provided for in this chapter, provided no administrative appeal shall lie from a proceeding pursuant to the subsection and initiated by the town manager or his designee before the town council.

(Ord. No. 1198, § 1, 6-17-69; Ord. No. 2362, §§ 1—3, 6-5-89; Ord. No. 2479, § 1, 5-6-91; Ord. No. 3009, § 1, 3-5-01; Ord. No. 3225, § 2, 12-2-02; Ord. No. 3589, §§ 1—3, 7-20-10; Ord. No. 3657, § 1, 3-5-12; Ord. No. 3741, § 1, 7-22-14; Ord. No. (2019)4000, §§ 2, 3, 9-17-19)

Editor's note—Ord. No. (2019)4000, §§ 1—3, adopted Sept. 17, 2017, set out provisions adding § 6-7(20) and renumbering the exiting §§ 6-7(20), (21) as §§ 6-7(21), (22). To correct a scrivener's error, and at the editor's discretion, said provisions have been included herein as adding § 6-17(20) and renumbering the exiting §§ 6-17(20), (21) as §§ 6-17(21), (22) .

Sec. 6-18. Duty to cause investigation of possible nuisances.

The town manager, or his designee, upon notice from any person of the existence of any of the conditions described in this article, shall cause to be made by the appropriate county health department official or town official such investigation as may be necessary to determine whether in fact such condition exists as to constitute a public nuisance.

(Ord. No. 1198, § 2, 6-17-69; Ord. No. 2479, § 2, 5-6-91)

Sec. 6-19. Nuisance abatement inspection fee.

Pursuant to General Statutes, section 160A-414, a fee for inspecting nuisances defined in this

- (22) Any other condition specifically declared to be a danger to the public health, safety, morals and general welfare of inhabitants of the city and a public nuisance by the town council, which proceeding may be initiated by the town manager or his designee before the council after giving written notice thereof. Such notice shall state the condition existing, the location and that the council will be requested on a day certain, after a public hearing at which the person notified may appear and be heard, to declare that the conditions existing constitute a danger to the public health, safety, morals and general welfare of the inhabitants of the city and a public nuisance. After such declaration by the council in the form of an ordinance, the condition will be abated as provided for in this chapter, provided no administrative appeal shall lie from a proceeding pursuant to the subsection and initiated by the town manager or his designee before the town council.

(Ord. No. 1198, § 1, 6-17-69; Ord. No. 2362, §§ 1—3, 6-5-89; Ord. No. 2479, § 1, 5-6-91; Ord. No. 3009, § 1, 3-5-01; Ord. No. 3225, § 2, 12-2-02; Ord. No. 3589, §§ 1—3, 7-20-10; Ord. No. 3657, § 1, 3-5-12; Ord. No. 3741, § 1, 7-22-14; Ord. No. (2019)4000, §§ 2, 3, 9-17-19)

Editor's note—Ord. No. (2019)4000, §§ 1—3, adopted Sept. 17, 2017, set out provisions adding § 6-7(20) and renumbering the exiting §§ 6-7(20), (21) as §§ 6-7(21), (22). To correct a scrivener's error, and at the editor's discretion, said provisions have been included herein as adding § 6-17(20) and renumbering the exiting §§ 6-17(20), (21) as §§ 6-17(21), (22) .

Sec. 6-18. Duty to cause investigation of possible nuisances.

The town manager, or his designee, upon notice from any person of the existence of any of the conditions described in this article, shall cause to be made by the appropriate county health department official or town official such investigation as may be necessary to determine whether in fact such condition exists as to constitute a public nuisance.

(Ord. No. 1198, § 2, 6-17-69; Ord. No. 2479, § 2, 5-6-91)

Sec. 6-19. Nuisance abatement inspection fee.

A fee for inspecting nuisances defined in this article shall be charged to the owner of such lot or parcel of land. It shall be the duty of the tax collector to mail a statement of such fee to the owner or other person in possession of such premises with instructions that such fee is due and payable within thirty (30) days from the receipt thereof.

- (1) *Fees enumerated.* The fee for such inspections is set out in the adopted fee schedule.
- (2) *Extra inspections.* The fee referenced above entitles the permittee to an initial inspection plus one (1) additional inspection for the corrected work. For each inspection in excess of these, there shall be an additional charge.

(Ord. No. 1930, § 1, 6-25-84; Ord. No. 2357, § 2, 5-16-89; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 6-20. Duty to give notice of existence of nuisance and require abatement.

(a) Upon a determination that a public nuisance as described in this article exists, the town manager or his designee shall notify in writing the owner, occupant or person in possession of the premises in question of the condition constituting such public nuisance and shall order the prompt abatement thereof within ten (10) days from the receipt of such written notice, or if proof of the delivery of the written notice cannot be obtained, within ten (10) days of the mailing of such notice to the owner's last known address as listed with the Wake County Tax Collector, and in addition notice may be published in a newspaper of general circulation.

(b) Within the ten-day period mentioned in subsection (a) above, the owner of the property where the nuisance exists may appeal the findings of the town manager or his designee made pursuant to subsection (a) above to the town council by giving written notice of appeal to the town clerk. The filing of the appeal shall stay the abatement of the nuisance by the town until a final determination by the council, unless the town manager or his designee certifies to the

council that, because of the facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property or that, because the violation is transitory in nature, a stay would seriously interfere with the effective enforcement of this chapter. In that case, abatement proceedings shall not be stayed except by order of the town council or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the town manager or his designee. In the event no appeal is taken, the town may proceed to abate the nuisance.

(c) The council, in the event an appeal is taken as provided in subsection (b) above and after hearing all interested persons and reviewing the findings of the town manager or his designee, may reverse the findings made pursuant to subsection (a) above; but if the council shall uphold the findings of the town manager or his designee made pursuant to such subsection, the council shall adopt an ordinance specifically declaring the condition existing on the property to be a danger and hazard to the health, safety, morals and general welfare of the inhabitants of the town and a public nuisance and directing the appropriate town employees to cause the condition or conditions to be abated.

(d) If any of the above-defined nuisances are found to exist, the responsibility for abatement shall rest with the owner, occupant or person in possession of the property or their agent, notwithstanding that the nuisance is found to exist, wholly or in part, within a town easement which crosses private property.

(Ord. No. 1198, § 3, 6-17-69; Ord. No. 1930, § 2, 6-25-84; Ord. No. 2362, § 4, 6-5-89; Ord. No. 2479, §§ 3, 4, 5-6-91; Ord. No. 3390, § 1, 3-21-06)

Sec. 6-21. Abatement of nuisance by town; violator may have town abate nuisance.

(a) If any person, after having been ordered to abate a public nuisance described in this article, fails, neglects or refuses to abate or remove the condition constituting the nuisance within ten (10) days from mailing of the order, the town manager or his designee shall cause the condition to be removed or otherwise remedied by

having employees of the town or a private contractor hired by the town go upon such premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the administrative officer. In such instances, weeds or grass shall always be cut to a height satisfactory to the manager or his designee.

(b) Any person who has been ordered to abate a public nuisance may within the time allowed by this article request the town in writing to remove such condition, the cost of which shall be paid by the person making such request.

(c) Nuisance abatement by the town in the form of grass cutting will not include cutting in areas which are inaccessible, will not include cutting of living trees and will not involve cutting on any lot which is located more than two hundred (200) feet from an improved lot (meaning one on which there is an existing residence or commercial structure).

(Ord. No. 1198, § 4, 6-17-69; Ord. No. 1587, § 1, 6-4-79; Ord. No. 1930, § 2, 6-25-84; Ord. No. 2479, § 5, 5-6-91; Ord. No. 3390, § 2, 3-21-06; Ord. No. 3580, § 1, 5-3-10)

Sec. 6-22. Cost of nuisance abatement to be charged to owner of premises; statement of charges.

The actual cost incurred by the town in removing or otherwise remedying a public nuisance defined in this article shall be charged to the owner of such lot or parcel of land, and it shall be the duty of the tax collector to mail a statement of such charges to the owner or other person in possession of such premises with instructions that such charges are due and payable within thirty (30) days from the receipt thereof.

(Ord. No. 1198, § 5, 6-17-69; Ord. No. 1930, § 2, 6-25-84)

Sec. 6-23. Lien created upon failure to pay nuisance abatement costs.

In the event charges for the removal or abatement of a public nuisance described by this article are not paid within thirty (30) days after the receipt of the statement of charges as provided for in section 6-22, such charges shall become a

lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes.

(Ord. No. 1198, § 6, 6-17-69; Ord. No. 1930, § 2, 6-25-84)

Sec. 6-24. Nonconformities.

Maintaining a residential structure with window and/or door openings or other wall openings boarded up for more than six (6) months after the adoption of this ordinance [from which this section derives] without having applied for a permit shall be unlawful.

(Ord. No. 3657, § 4, 3-5-12)

Sec. 6-25. Annual notice to chronic violators of public nuisance ordinances.

The notice given to violators required in section 6-20 is modified as set forth herein for chronic violators. A chronic violator is a person who owns property whereupon, in the previous calendar year, the town gave notice of violation at least three (3) times under any provision of the public nuisance ordinance. The town may notify a chronic violator of the town's public nuisance ordinance that, if the violator's property is found to be in violation of the article, the town shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The notice shall be sent by certified mail.

(Ord. No. 3578, § 1, 4-5-10; Ord. No. 3657, § 4, 3-5-12)

Editor's note—Section 1 of Ord. No. 3578, adopted April 5, 2010, repealed the former § 6-24 and enacted a new § 6-24 as set out herein. The former § 6-24 pertained to second and subsequent violations, and derived from Ord. No. 1198, adopted June 17, 1969; and Ord. No. 1930, adopted June 25, 1984.

Section 4 of Ord. No. 3657, adopted March 5, 2012, added new provisions designated as § 6-24, renumbering former §§ 6-24—6-26 as 6-25—6-27.

Sec. 6-26. Civil penalty provided.

(a) A violation of any provision of this chapter shall constitute a misdemeanor punishable as provided in section 1-8 or a civil penalty as set forth below.

(b) A violation of any provision of this chapter shall subject the offender to a civil penalty in the amount of one hundred fifty dollars (\$150.00) for the first offense, plus the cost of abating the nuisance. No penalty for the first offense after January 1, 2003 shall be imposed if the offender abates the nuisance within ten (10) days of notice of the violation. A second or subsequent violation of any provision of this chapter shall subject the offender to a civil penalty in the amount of three hundred dollars (\$300.00) plus costs of abatement.

(c) The offender shall be issued a written citation by delivery in person or mailed by certified or registered mail. The civil penalty must be paid within ten (10) days of its receipt by the offender.

(d) The penalty may be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty within the prescribed period of time after he or she has been issued a citation.

(e) In accordance with G.S. 160A-193, the costs of abatement constitute a lien on the land or premises where the nuisance occurred with the same priority as unpaid ad valorem taxes.

(Ord. No. 2479, § 6, 5-6-91; Ord. No. 3225, § 3, 12-2-02; Ord. No. 3657, § 4, 3-5-12; Ord. No. (2022)5091, § 1, 1-3-22)

Editor's note—Former § 6-25. See editor's note to § 6-25.

Sec. 6-27. Alternative nuisance abatement.

In addition to other enforcement procedures set forth herein, nuisances may be abated and violations enforced as set forth below.

- (1) Where an offender has been issued a written citation by delivery in person, the offender may avoid the penalty becoming past due on the tenth day thereafter only by fully abating the nuisance or filing a notice of appeal within the ten-day period.
- (2) Where citations have been issued to both an occupant and a non-occupant owner for the same nuisance condition on the same premises, the filing of a notice of

appeal by either the occupant or non-occupant owner shall be deemed to be also on behalf of the other.

- (3) When a notice of appeal is filed, the appeal will be heard by the chief building inspector or designee within five (5) days of the filing of the notice of appeal. Postponements of the appeal hearing will be allowed only for extraordinary reasons.
- (4) If the nuisance has not been abated and if no notice of appeal has been filed, the inspector shall re-inspect the premises as soon as practicable following the expiration of ten (10) days from the notice of violation, and if the nuisance has not been abated, shall take steps to abate the nuisance as set forth in subsection 6-21(a).
- (5) Following abatement, the offender shall be issued a written supplement to the citation detailing the amount of the penalty and the clean-up bill. If the penalty and clean-up bill are not paid within ten (10) days of either hand delivery to the offender, or mailing to the offender by certified mail, the penalty and abatement expenses may be recovered in a civil action in the nature of a debt, and/or collected in accordance with existing state law, including collecting costs of abatement as a lien on real property.
- (6) When any property within the town is allowed by the occupant and/or owner to be in a condition constituting a nuisance as defined in section 6-17, the violation exists separately and independently on the part of the occupant and any non-occupant owner of the premises. A non-occupant owner who is an offender under this section [article] shall, to the extent practicable, be subjected to the penalties, recovery of abatement costs, and misdemeanor prosecution in accordance with section 1-8, as well as an occupant, provided that while a civil penalty may be recovered or a misdemeanor prosecution in accordance with section 1-8, may be had against both owner and non-owner occupant for the same nuisance

condition, if the town shall have recovered the abatement costs from one (1) party, it may not recover the same cost from a second party.

(Ord. No. 3225, § 4, 12-2-02; Ord. No. 3657, § 4, 3-5-12; Ord. No. (2022)5091, § 1, 1-3-22)

Editor's note—Former § 6-26. See editor's note to § 6-25.

Sec. 6-28. Enclosing structures.

(a) All structures shall be enclosed with building materials appropriate to the residence house sufficient to deter unauthorized access and prevent the entry of rain; where the openings are windows and/or doors, the windows and doors shall be of a material and type appropriate to the structure and designed to be sufficient to deter such entry, except as set forth hereinafter.

(b) A structure must be boarded up temporarily by the owner if a building inspector orders the same upon investigation, which may arise from a request from the Garner Police Department or Garner Volunteer Fire and Rescue, Inc., that there are circumstances that temporary board-up is necessary to protect life or property.

(c) The building inspector may give notice of such an order by hand delivery or by posting a copy of the same conspicuously on the premises. If an owner who has been ordered to board up a structure by a building inspector fails to do so within five (5) business days, the building inspector may request the public works department of the town to abate the nuisance and the cost thereof shall become a lien on the owner's property to the full extent provided by law.

(d) An owner who wishes to appeal from an order to board up a structure, or from the denial of a permit, or the denial of an extension of a permit, may appeal within ten (10) days to the town manager or his designee, provided, that if the appeal is from an order of an inspector to board up a structure, the appeal must be filed within five (5) days of the issuance of the order and will be set for an administrative hearing as promptly as possible.

(Ord. No. 3657, § 2, 3-5-12)

Sec. 6-29. Boarding up residential structures by owners.

(a) Where a building inspector finds that there are circumstances such as damage to the structure by accident, wind, fire, collision, Act of God or nature which render it unusually difficult or impracticable for the owner to install windows and/or doors, or enclose other openings with permanent components promptly, a residential structure may be boarded up temporarily by the owner or owner's agent pursuant to issuance of a permit.

(b) Such a permit may be issued by a building inspector upon receipt of an application for a permit. Prior to issuance of a permit, or extending a permit, the owner or owner's agent shall confer with a building inspector to discuss alternatives considered preferable by the town as set forth in the preamble to the ordinance from which this section derives.

(c) A permit to board up a structure must contain the following information:

- (1) The full name, mailing address and telephone number of the owner and of any person applying as agent of the owner;
- (2) The address and tax parcel number of the structure to be boarded up;
- (3) The owner's plan for the occupancy, repair, including replacement of the temporary boarding-up material by appropriate glazing, doors and other suitable building components, or demolition of the structure, including the deadline for coming into compliance and removing the boards;
- (4) The owner's plan for regular maintenance during the period the structure is boarded up and such other information as the inspection department shall from time to time deem necessary;
- (5) The owner's agreement to install the boarding-up materials in a manner consistent with guidelines adopted by the inspections department;

(6) The owner shall have a continuing duty to promptly supplement information required by this section in the event as circumstances change.

(d) A permit may be revoked for failure to comply with the terms thereof.

(e) The application fee for a boarding-up permit, or for an extension of such a permit, shall be twenty dollars (\$20.00) or as otherwise established in the town's adopted fee schedule.

(f) The duration of a permit allowing a residential structure to be boarded up, and the duration of an order [from] a building inspector to board up a nonresidential structure, shall be no more than six (6) months, except where an extension is granted pursuant to subsection (e).

(g) Upon application and submission of good grounds therefor, a building inspector may issue a subsequent permit for an extended period upon finding that there are factors which require an extension of a residential boarding-up permit for an extended period and the boarding up is accomplished in a fashion consistent with the appearance of the structure, such as using exterior shutters or millwork of a similar appearance on a residential structure, or otherwise giving due concern to the appearance of the structure and impact on the neighboring properties.

(h) Factors which may justify the extension of a permit include an unresolved insurance claim for repair or replacement (other than inexcusable delay by the homeowner), hardship, and security concerns which can not reasonably be accomplished by some method other than by boarding up, (such as by using high-impact synthetic glazing or similar materials.) In evaluating security concerns, the building inspector may consider the use of the property and the value of the structure and its contents, and the burden on the owner and the expense thereof, of securing the property in some other fashion.

(i) Except as ordered or permitted by the ordinance from which this section derives, it shall be unlawful to board up a residential structure.

(Ord. No. 3657, § 3, 3-5-12; Ord. No. (2022)5091, § 1, 1-3-22)

Chapter 7

MINIMUM HOUSING*

Sec. 7-1.	Findings; purpose.
Sec. 7-2.	Definitions.
Sec. 7-3.	Compliance with minimum standards for dwellings and dwelling units required.
Sec. 7-4.	Minimum standards for structural conditions.
Sec. 7-5.	Minimum standards for basic equipment and facilities.
Sec. 7-6.	Minimum standards for ventilation.
Sec. 7-7.	Minimum standards for space, use and location.
Sec. 7-8.	Minimum standards for safe and sanitary maintenance.
Sec. 7-9.	Minimum standards for control of insects, rodents, and infestations.
Sec. 7-10.	Minimum standards to be applicable to rooming houses; exceptions.
Sec. 7-11.	Responsibilities of owners and occupants for maintenance.
Sec. 7-12.	Duties and powers of housing inspector.
Sec. 7-13.	Duties and powers of chief code official.
Sec. 7-14.	Appeals.
Sec. 7-15.	Right of entry to make housing inspections; duty of owners and occupants to permit access.
Sec. 7-16.	Enforcement procedures.
Sec. 7-17.	Service of complaints and orders.
Sec. 7-18.	In personam remedy for failure to comply with order.
Sec. 7-19.	In rem action by inspector, placarding for failure to comply with orders.
Sec. 7-20.	Costs of repairs, etc., by chief code official to constitute a lien on premises.
Sec. 7-21.	Alternative remedies.
Sec. 7-22.	Conflict with other provisions.
Sec. 7-23.	Violations; penalties.

***Editor's note**—Section 1 of Ord. No. 1639, adopted Jan. 22, 1980, amended the Code by adding provisions creating a new Ch. 7 of this Code; section designations were not provided by the ordinance and, hence, have been supplied by the editor at his discretion.

Subsequently, Ord. No. 3716, § 3, adopted Nov. 19, 2013, changed the title of Ch. 7 from "Housing" to read as herein set out.

State law reference—Minimum housing standards, G.S. § 160A-441 et seq.

Sec. 7-1. Findings; purpose.

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

(b) In order to protect the health, safety and welfare of the residents of the town as authorized by Article 12, Chapter 160D of the General Statutes, it is the purpose of this chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by General Statutes, Section 160D-1205.

(Ord. No. 1639, § 1(1), 1-22-80; Ord. No. (2022)5092, § 1, 1-3-22)

Sec. 7-2. Definitions.

The following shall apply in the interpretation and enforcement of this chapter:

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

Board shall mean the board of adjustment, which shall hear appeals from orders of the chief code official, and shall have the duties specified in General Statutes, Section 160D-1208.

Cellar shall mean a portion of a building located partly or wholly underground having inadequate access to light and air from windows located partly or wholly below the levels of the adjoining ground.

Deteriorated shall mean that a dwelling is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by this chapter,

at a cost not in excess of fifty (50) percent of its value, as determined by finding of the housing inspector and chief code official.

Dilapidated shall mean that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this chapter at a cost not in excess of fifty (50) percent of its value, as determined by finding of the housing inspector and chief code official.

Dwelling shall mean any building which is wholly or partly used or intended to be used for living or sleeping by human occupants, subject to the restriction of General Statutes, Section 160D-706(b).

Dwelling unit shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating, subject to the restriction of General Statutes, Section 160D-706(b).

Extermination shall mean the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigation, trapping or by any other recognized and legal pest-elimination methods approved by the North Carolina Department of Agriculture, pest control standards, the housing inspector and the chief code official.

Garbage shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

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

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

Inspector shall mean a housing inspector of the town or any agent who is authorized by the chief code official.

Multiple dwelling shall mean any dwelling containing more than two (2) dwelling units.

Occupant shall mean any person over one (1) year of age living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.

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

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

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

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

Public authority shall mean the town's chief code official and housing inspector, with the assistance of all other departments of the town relating to health, fire, building regulations or other departments concerning dwellings in the town.

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

Roominghouse shall mean any dwelling, or part of any dwelling containing one (1) or more rooming units, which is let by owner or operator to three (3) or more persons who are not husband and wife, son or daughter, mother or father, or sister or brother of the owner or the operator.

Rubbish shall mean combustible and noncombustible waste material, except garbage and ashes; and the term shall include paper, bags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust, such as sawdust or wood shavings.

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

Unfit for human habitation shall mean that conditions exist in a dwelling which violate or do not comply with one (1) or more of the minimum standards of fitness or one (1) or more of the requirements established by this chapter.

Whenever the words "dwelling," "dwelling unit," "roominghouse," "rooming unit," "premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof." Whenever the word "board" is used in this chapter, it shall mean the board of adjustment, as the designated housing appeals board pursuant to General Statutes, Section 160D-305.

(Ord. No. 1639, § 1(2), 1-22-80; Ord. No. 2397, § 1, 11-6-89; Ord. No. (2022)5092, § 1, 1-3-22)

Sec. 7-3. Compliance with minimum standards for dwellings and dwelling units required.

Every dwelling and dwelling unit used as human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of Sections 7-4 through 7-9 of this chapter.

(Ord. No. 1639, § 1(3), 1-22-80)

Sec. 7-4. Minimum standards for structural conditions.

(a) Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, and shall not be rotted, deteriorated or damaged, and shall not have holes or cracks which might admit rodents.

(b) Floors or roofs shall have adequate supporting members and strengths.

(c) The building foundation walls, piers or other elements shall be maintained in a safe manner and capable of supporting the load which normal use may cause to be placed thereon.

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

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

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

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

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

(i) There shall be no use of the ground for floors or wood floors on the ground.
(Ord. No. 1639, § 1(4), 1-22-80)

Sec. 7-5. Minimum standards for basic equipment and facilities.

(a) *Plumbing systems:*

(1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system.

(2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

(3) All plumbing fixtures shall meet the standards of the state building code and shall be maintained in a state of good repair and in good working order.

(4) All required plumbing fixtures shall be located within the dwelling unit and shall be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(b) *Heating system.* Every dwelling and dwelling unit shall have facilities for providing heat in accordance with either subsection (1) or (2) below:

(1) *Central and electric heating systems.* Every central or electric heating system shall be of sufficient capacity so as to heat, in every dwelling unit to which it is connected, with a minimum temperature of sixty-eight (68) degrees Fahrenheit measured at a point three (3) feet above the floor during ordinary winter conditions.

(2) *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat all habitable rooms with a minimum temperature of sixty-eight (68) degrees Fahrenheit measured three (3) feet above the floor and two (2) feet from exterior walls during ordinary winter conditions. No portable space heaters shall be used to achieve compliance of this section.

(c) *Electrical system:*

(1) Every dwelling and dwelling units shall be wired for electric lights and convenience

receptacles. Every habitable room shall contain at least two (2) floor- or wall-type electric convenience receptacles, connected in such manner as determined by the National Electric Code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one (1) supplied ceiling- or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three (3) floor- or wall-type electric convenience receptacles.

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

(Ord. No. 1639, § 1(5), 1-22-80; Ord. No. 3716, § 3, 11-19-13)

Sec. 7-6. Minimum standards for ventilation.

(a) *Habitable rooms generally.* Every habitable room shall have at least one (1) window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be not less than eight (8) percent of the floor area of such room. Whenever walls or other obstructing structures are located less than five (5) feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least ten (10) percent of the total floor area of such room.

(b) *Openable window area for habitable rooms.* Every habitable room shall have at least one (1) window skylight which can easily be opened, or

such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least four (4) percent of the floor area or shall have other approved equivalent ventilation.

(c) *Bathroom and water closet rooms.* Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system. (Ord. No. 1639, § 1(6), 1-22-80; Ord. No. 3716, § 3, 11-19-13)

Sec. 7-7. Minimum standards for space, use and location.

(a) *Room sizes and floor area.* Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the state residential building code.

- (1) Every dwelling unit shall have at least one (1) habitable room that shall have not less than one hundred twenty (120) square feet of gross floor area. Habitable rooms shall not be less than seven (7) feet in any horizontal dimension.
- (2) Other rooms. Other habitable rooms shall have a floor area of not less than seventy (70) square feet.

(b) *Ceiling height.* At least one-half ($\frac{1}{2}$) of the floor area of every habitable room shall have a ceiling height of not less than seven (7) feet. There shall be no habitable room with any portion of the ceiling height less than five (5) feet.

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

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

- (1) The floor and walls are substantially watertight;
- (2) The total window area, total openable window area, and ceiling height are equal to those required for habitable rooms;

- (3) The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the window or windows face a stairwell, window well or access-way.

(Ord. No. 1639, § 1(7), 1-22-80; Ord. No. 3716, § 3, 11-19-13)

Sec. 7-8. Minimum standards for safe and sanitary maintenance.

(a) *Foundation walls, exterior walls and roofs.* Every foundation wall, exterior wall and exterior roof shall be substantially weathertight and rodentproof, shall be kept in sound condition and good repair, shall be capable of affording privacy and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

(b) *Floors, interior walls and ceilings.* Every floor, interior wall and ceiling shall be substantially rodentproof, shall be kept in sound condition and good repair, and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(c) *Windows and doors.* Every window, exterior door, basement or cellar door, and hatchway shall be substantially weathertight, watertight and rodentproof, and shall be kept in sound working condition.

(d) *Stairs, porches and appurtenances.* Every inside and outside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in sound condition and good repair.

(e) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

(f) *Supplied facilities.* Every supplied facility, piece of equipment or utility which is required under this chapter or shall have been constructed in connection with the premises being inspected, including utility and roadway infrastructure, curbs, gutters, walks and driveways, shall be constructed or installed so that it will function safely and effectively and shall be maintained in clean and satisfactory working condition and at the time of issuance of the certificate of compliance, shall be free of all defects, cracks and breaks, including that the water meter box and sewer cleanout shall be at the final grade.

(g) *Drainage.* Every yard shall be properly graded and seeded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water and erosion, and so as to allow the natural flow of water and not divert water onto adjacent property.

(h) *Noxious weeds.* Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health.

(i) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by the state building codes.

(j) *Street address.* Every dwelling unit shall be provided with the proper street address numbers, visible to emergency personnel from the street.

(k) *Certificate of compliance.* A final lot inspection shall be conducted prior to the issuance of a certificate of compliance. No certificate of compliance shall be issued unless the premises shall meet the requirements of this chapter.

(l) *Temporary certificate of compliance.* When a final lot inspection shall have been conducted and the premises fails to meet the requirements of this chapter, a temporary certificate of compliance may be issued permitting occupancy if the inspector finds it may safely be occupied prior to final completion of the final lot inspection requirements. Provided, however, that the seller or occupant of the premises shall complete an application for a temporary certificate of compliance under this subsection, reciting the defects which will be corrected, stating a reasonable

time within which they will be corrected, and depositing a cash bond or a letter of credit in the amount sufficient in the opinion of the town engineer to complete the necessary improvements in the event the applicant fails to do so within the time stated.

(Ord. No. 1639, § 1(8), 1-22-80; Ord. No. 2446, § 5, 9-18-90; Ord. No. 3716, § 3, 11-19-13)

Sec. 7-9. Minimum standards for control of insects, rodents, and infestations.

(a) *Screens.* In every dwelling unit, for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and a self-closing device, except where such doors are not used for the purpose of ventilation when a mechanical ventilation system or device is provided. Every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens installed. Such screens shall be maintained so that they provide an impervious barrier to mosquitoes, flies and other insects.

(b) *Rodent control.* Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens installed or such other approved devices as will effectively prevent their entrance.

(c) *Infestation.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one (1) dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent-proof or reasonably insectproof condition, extermination shall be at the responsibility of the owner. Whenever infestation exists in two (2) or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling

containing two (2) or more dwelling units, extermination shall be the responsibility of the owner.

(Ord. No. 1639, § 1(9), 1-22-80; Ord. No. 3716, § 3, 11-19-13)

Sec. 7-10. Minimum standards to be applicable to rooming houses; exceptions.

All of the provisions of this chapter, and all of the minimum standards and requirements of this chapter, shall be applicable to rooming-houses, and to every person who operates a roominghouse, or who occupies or lets to another for occupancy any rooming unit in any rooming-house, except as provided in the following subsections:

- (1) *Water closet, hand lavatory and bath facilities.* At least one (1) water closet, lavatory basin, and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four (4) rooms within a roominghouse wherever said facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one (1) story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.
- (2) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one (1) occupant shall contain at least one hundred (100) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.

- (3) *Sanitary conditions.* The operator of every roominghouse shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for the sanitary maintenance of every other part of the roominghouse; and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the roominghouse is contained is leased or occupied by the operator.
- (4) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin, and bathtub or shower required by subsection (1) of this section shall be located within the roominghouse and within a room or rooms which afford privacy and are separate from the habitable rooms, and which are accessible from a common hall and without going outside the roominghouse or through any other room therein.

(Ord. No. 1639, § 1(10), 1-22-80)

Sec. 7-11. Responsibilities of owners and occupants for maintenance.

(a) *Public areas.* Every owner of a dwelling containing two (2) or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(b) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.

(c) *Rubbish and garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner.

(d) *Supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.

(e) *Care of facilities, equipment and structure.* No occupant shall willfully destroy, deface or impair any of the facilities or equipment, or any part of the structure, of a dwelling or dwelling unit.

(Ord. No. 1639, § 1(11), 1-22-80)

Sec. 7-12. Duties and powers of housing inspector.

The housing inspector is hereby designated as the officer to enforce the provisions of this chapter and to exercise the duties and powers herein prescribed. It shall be the duty of the housing inspector:

- (1) To investigate the dwelling conditions and to inspect dwellings and dwelling units located in the town in order to determine which dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this chapter with respect to such dwellings and dwelling units;
- (2) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;
- (3) To keep a record of the results of inspections made under this chapter and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed; and
- (4) To perform such other duties as may be herein prescribed.

(Ord. No. 1639, § 1(12), 1-22-80)

Sec. 7-13. Duties and powers of chief code official.

The chief code official is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter, including the following powers in addition to others granted herein:

- (1) To administer oaths and affirmations, examine witnesses, and receive evidence;

- (2) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purpose of this chapter.

(Ord. No. 1639, § 1(13), 1-22-80)

Sec. 7-14. Appeals.

An appeal may be taken from any decision or order of the chief code official as provided by Section 7-16(c) of this chapter.

(Ord. No. 1639, § 1(20), 1-22-80; Ord. No. 2397, § 2, 11-6-89)

Sec. 7-15. Right of entry to make housing inspections; duty of owners and occupants to permit access.

For the purpose of making inspections, the inspector is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit or rooming unit or the person in charge thereof, shall give the inspector free access to such dwelling, dwelling unit or rooming unit and its premises at all reasonable times for the purposes of such inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit and its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful order issued pursuant to the provisions of this chapter.

(Ord. No. 1639, § 1(14), 1-22-80)

Sec. 7-16. Enforcement procedures.

(a) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the housing inspector by at least five (5) residents of the town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties

in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the chief code official at a place therein fixed not less than ten (10) nor more than thirty (30) days after the serving of said complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one (1) of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the inspector.

(b) *Procedure after hearing.* After such notice and hearing:

- (1) If the chief code official determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter within a specified period of time, not to exceed ninety (90) days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations and improvements have been made.
- (2) If the chief code official determines that the dwelling is deteriorated or dilapidated from the information supplied him by the housing inspector, he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to comply with the minimum standards of fitness established by this chapter, or else vacate and remove or demolish the same within a specified period of time not to exceed ninety (90) days.

(c) *Appeals from orders of chief code official.* An appeal from any decision or order of the chief code official may be taken by any person aggrieved thereby. Any appeal from the chief code official shall be taken within ten (10) days from the rendering of the decision of service of the order, and shall be taken by filing with the chief code official and with the board of adjustment a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the chief code official shall forthwith transmit to the board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the chief code official refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When an appeal is from a decision of the chief code official requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the board, unless the chief code official certifies to the board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant) a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one (1) days' written notice to the chief code official by the board or by a court of record upon petition made pursuant to General Statutes, Section 160D-1208 and paragraph (d) of this section.

The board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end, it shall have all the powers of the inspector, but the concurring vote of four (4) members of the board shall be necessary to reverse or modify any decision or order of the inspector. The board shall have power also in passing upon appeals, in

any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case, to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

Every decision of the board shall be subject to review by proceedings in the nature of certiorari instituted within fifteen (15) days of the decision of the board, but not otherwise.

(d) *Petition to superior court by owner.* Any person aggrieved by order issued by the inspector or a decision rendered by the board shall have the right, within thirty (30) days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the inspector pending a final disposition of the cause, as provided by General Statutes, Section 160D-1208. (Ord. No. 1639, § 1(15(a), (b), (d), (e)), 1-22-80; Ord. No. 3716, § 3, 11-19-13; Ord. No. (2022)5092, § 1, 1-3-22)

Sec. 7-17. Service of complaints and orders.

Complaints or orders issued by the chief code official shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the inspector in the exercise of reasonable diligence, the chief code official shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing the same once each week for two (2) successive weeks in a newspaper (circulating) in the town. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

(Ord. No. 1639, § 1(16), 1-22-80)

Sec. 7-18. In personam remedy for failure to comply with order.

If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the chief code official to repair, alter or improve the same within the time specified therein, or if the owner of a deteriorated or dilapidated dwelling shall fail to comply with an order of the inspector to vacate and close, and remove or demolish the same within the time specified therein, the chief code official shall submit to the town council, at its next regular meeting, a resolution directing the town attorney to petition the superior court for an order directing such owner to comply with the order of the inspector, as authorized by General Statutes, Section 160D-1208(e).

(Ord. No. 1639, § 1(15(c)), 1-22-80; Ord. No. (2022)5092, § 1, 1-3-22)

Sec. 7-19. In rem action by inspector, placarding for failure to comply with orders.

(a) After failure of an owner of a dwelling or dwelling unit to comply with an order of the chief code official issued pursuant to the provisions of this chapter, and upon adoption by the town council of an ordinance authorizing and directing him to do so, as provided by General Statutes, Section 160D-1203 of this chapter, the inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this chapter, or to be vacated and closed and removed or demolished, as directed by the ordinance of the town council, and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a misdemeanor pursuant to General Statutes, Section 160D-1203(4).

(b) Each such ordinance shall be recorded in the office of the register of deeds in the county wherein the property is located, and shall be

indexed in the name of the property owner in the grantor index, as provided by General Statutes, Section 160D-1203.

(Ord. No. 1639, § 1(17), 1-22-80; Ord. No. (2022)5092, § 1, 1-3-22)

Editor's note—Language in the first sentence of Ord. No. 1639, § 1(17), adopted Jan. 22, 1980, reading "upon adoption by the Board of Aldermen of an ordinance authorizing and directing him to do so, as provided by G.S. 160A-443(5) and section 15(c) of this ordinance" has been edited by deletion of the words "and Section 15(c) of this ordinance" inasmuch as § 15(c), codified herein as § 17-18, pertains to a different subject matter.

Sec. 7-20. Costs of repairs, etc., by chief code official to constitute a lien on premises.

As provided by General Statutes, Section 160D-1203, the amount of the cost of any repairs, alterations or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the chief code official pursuant to Section 7-19 of this chapter shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority and be enforced and the costs collected as provided by Article 10, Chapter 160A of the General Statutes of North Carolina. (Ord. No. 1639, § 1(18), 1-22-80; Ord. No. (2022)5092, § 1, 1-3-22)

Sec. 7-21. Alternative remedies.

Neither this chapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce the ordinance from which this section is derived as authorized by General Statutes, Chapter 160D and Section 160A-175 and Section 7-23 of this chapter; and the enforcement of any other remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

(Ord. No. 1639, § 1(19), 1-22-80; Ord. No. (2022)5092, § 1, 1-3-22)

Sec. 7-22. Conflict with other provisions.

In the event any provision, standard or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.

(Ord. No. 1639, § 1(21), 1-22-80)

Sec. 7-23. Violations; penalties.

It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, upon order of the chief code official duly made and served as herein provided within the time specified in such order, and each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to section 7-16 of this chapter, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense. Except for criminal penalties as authorized in General Statutes, Chapter 160D, the violation of any provision of this chapter shall subject the offender to the issuance of civil penalties as provided by section 1-8 of this Code.

(Ord. No. 1639, § 1(22), 1-22-80; Ord. No. (2022)5092, § 1, 1-3-22)

Chapter 8

RESERVED*

***Editor's note**—Ord. No. 3716, § 4, adopted Nov. 19, 2013, repealed former Ch. 8, §§ 8-16—8-25, which pertained to libraries, and derived from Ord. No. 1696, §§ 1—10, adopted Nov. 18, 1980; and Ord. No. 1826, §§ 1, 2, adopted Jan. 18, 1983.

Chapter 9

LICENSES AND BUSINESS REGULATIONS GENERALLY*

Article I. In General

Secs. 9-1—9-3. Reserved.
Sec. 9-4. Displaying goods, wares, merchandise on sidewalks.
Secs. 9-5—9-15. Reserved.

Article II. Business Registration Program

Sec. 9-16. Applicability of article.
Sec. 9-17. Information required; fee.
Sec. 9-18. Compliance.
Sec. 9-19. Violations; penalties.
Secs. 9-20—9-39. Reserved.

Article III. Peddlers, Solicitors, Hawkers, Itinerant Merchants and Vendors

Sec. 9-40. Itinerant merchants, peddlers, transient vendors and solicitors.
Sec. 9-41. Begging, solicitation or vehicle interference.
Secs. 9-42—9-50. Reserved.

Article IV. Cable Television Systems

Secs. 9-51—9-54. Reserved.
Sec. 9-55. Authority granted by franchise.
Sec. 9-56. Conditions to use streets and public ways.
Secs. 9-57—9-64. Reserved.
Sec. 9-65. Reserved.

***State law reference**—Authority for town to regulate and license businesses, trades, etc., G.S. § 160A-194.

ARTICLE I. IN GENERAL*

Sec. 9-1. Reserved.

Editor's note—Section 1 of Ord. No. 3779, adopted July 7, 2015, repealed former § 9-1, which pertained to stores to be closed during certain hours on Sunday; applicability of section, and derived from Ord. No. 1007, § 1(1), adopted April 6, 1959; and Ord. No. 1153, § 1, adopted Oct. 4, 1965.

Sec. 9-2. Reserved.

Editor's note—Section 1 of Ord. No. 3779, adopted July 7, 2015, repealed former § 9-2, which pertained to barbershops to be closed on Sunday, and derived from Ord. No. 1007, § 1(3), adopted April 6, 1959.

Sec. 9-3. Reserved.

Editor's note—Section 1 of Ord. No. 3779, adopted July 7, 2015, repealed former § 9-3, which pertained to wholesale delivery of beer, and derived from Ord. No. 1007, § 1(4), adopted April 6, 1959.

Sec. 9-4. Displaying goods, wares, merchandise on sidewalks.

It shall be unlawful for any person to keep, maintain, allow or place for display or sale or storage any goods, wares or merchandise of any kind upon any of the sidewalks of the town, which shall extend for more than a distance of twelve (12) inches onto, upon or above the sidewalks, as measured perpendicularly from the property line.
(Ord. of 9-8-59, § 1)

Secs. 9-5—9-15. Reserved.

***Cross references**—Permit required to engage in business of collecting, hauling or transporting wastes, § 5-2; taxicabs, § 16-16 et seq.; sale of fireworks, § 18-13; licensing of persons installing insulation and energy utilization equipment, § 19-46 et seq.

ARTICLE II. BUSINESS REGISTRATION PROGRAM†

Sec. 9-16. Applicability of article.

(a) *Purpose.* The purpose of the business registration program is to create and maintain a registry of businesses and business locations operating within the Town of Garner, to preserve public health, welfare, safety, order, and convenience pursuant to G.S. § 160A-94, and to assist the police, fire, inspections, and planning departments in performing their duties.

(b) *Applicability.* This article applies to all occupations, businesses, trades, professions, and forms of amusement and entertainment operating within the town limits. This article all applies to all uses and structures within the town's planning and development regulation jurisdiction (extraterritorial jurisdiction or ETJ). Except for those exempted by subsection (c), each firm, person, association, and corporation providing business services, including retail, professional, and general businesses of all kinds, and maintaining a business office or home business occupation office within the Town of Garner and the ETJ shall provide contact information as requested by the town on a business registration form to be provided by the town.

(c) *Exemptions.* This article does not apply to:

- (1) An individual person holding a license issued by an occupational licensing board of the state as to the profession or trade that he or she has been licensed to practice by the state; however, it does apply to the business location if the individual has any employees or if it is open to clients or the public.

†Editor's note—Ord. No. (2022)5151, § 1, adopted Nov. 7, 2022, repealed the former Art. II, §§ 9-16—9-19, and enacted a new Art. II as set out herein. The former Art. II pertained to similar subject matter and derived from Ord. No. 3788, § 1, adopted Oct. 5, 2015.

Editor's note—The ordinance from which this article is derived is effective January 1, 2023; however, existing registrations remain in effect until July 31, 2023, but may be renewed earlier at a discounted rate to be determined by the town manager.

- (2) A transportation network company (TNC) service regulated under G.S. ch. 20, art. 10Q.
 - (3) Residential uses of property, except for home occupations, group care, and those defined as other group living in the Unified Development Ordinance (UDO).
- (Ord. No. (2022)5151, § 1, 11-7-22)

Sec. 9-17. Information required; fee.

(a) A business registration form for each business location shall be filed prior to operating at the location or within thirty (30) days of a change of use or occupancy or annexation into the town limits.

(b) The business registration form shall be valid a twelve-month reporting period and must be renewed on an annual basis.

(c) The business registration fee is set out in the town's adopted fee schedule.

(d) Any business which ceases to operate or closes a location shall file a notice of cancellation within thirty (30) days of ceasing to operate or of permanently closing a location. No refund of the annual registration will be provided.

(e) The business information shall include the following:

- (1) Name of business (registered name and assumed or doing business as name, if more than one (1) name is used),
- (2) Type of business organization,
- (3) Physical and mailing address of business,
- (4) Name of office manager and/or other current contact person designated by the business, at least one (1) of which shall be for after-hours emergency calls,
- (5) Landline and cellular telephone number(s), for both working hours and after-hours emergency contact, and electronic mail addresses,
- (6) Number of employees working at business location,

- (7) General days and hours of operation for the business, if seasonal indicate months of operation,
- (8) Type of building occupancy with respect to the building code, and
- (9) Use of property with respect to the Unified Development Ordinance (UDO).

(f) Any changes to the business information, as required in subsection (e), shall be provided within five (5) business days. No fee shall be charged for updated information within the twelve-month reporting period.

(Ord. No. (2022)5151, § 1, 11-7-22)

Sec. 9-18. Compliance.

No application for zoning, inspections or other town permits will be accepted on behalf of a business which has failed to comply with this article, until the failure to comply has been corrected.

(Ord. No. (2022)5151, § 1, 11-7-22)

Sec. 9-19. Violations; penalties.

Violation of this article shall be punishable by imposition of a civil penalty of one hundred dollars (\$100.00).

(Ord. No. (2022)5151, § 1, 11-7-22)

Secs. 9-20—9-39. Reserved.

ARTICLE III. PEDDLERS, SOLICITORS, HAWKERS, ITINERANT MERCHANTS AND VENDORS

Sec. 9-40. Itinerant merchants, peddlers, transient vendors and solicitors.

(a) *Definitions.* For the purposes of this article, the following terms are defined as follows:

Itinerant merchant means any merchant, other than a merchant with an established retail store in the city who transports an inventory of goods to a building, vacant lot, or other locations in the city and who, at that location, displays the goods for sale and sells the goods at retail. A merchant who sells goods, other than farm products, in the

city for less than six (6) consecutive months is considered an itinerant merchant unless he stopped selling goods in the city because of death or disablement, the insolvency of his business, or destruction of his inventory by fire or other catastrophe.

Peddler means any person who carries from place to place any goods, wares or merchandise, subscriptions, services and/or discount coupons (hereinafter referred to as "wares"), or without traveling from place to place, selling or offering for sale any goods from any vehicle or device, and offers to sell or barter the same or actually sells or barter the same, except such person who is a wholesale dealer selling only to merchants for resale.

Person means natural persons, corporations and all business or other entities of any kind.

Solicitor means any person traveling from place to place taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future, whether or not samples are displayed or money is collected in advance; and using or occupying any building or premises for the sole purpose of taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future, whether or not samples are displayed or money is collected in advance.

Transient vendor means any person engaging in a temporary business of selling and delivering goods, and for this purpose, using or occupying any building or premises; provided that merely associating a transient business with a permanently established business does not exclude it from this definition.

(b) *General provisions.*

- (1) A person deemed an itinerant merchant, peddler, solicitor, or transient vendor shall apply and procure from the finance department a town permit for the privilege of transacting such business and shall pay the required permit fee as hereinafter set forth.

It shall be unlawful for any person to sell or offer for sale or peddle wares upon the

public streets or public parking lots of the town or to engage in business as an itinerant merchant, peddler, solicitor, or transient vendor anywhere in the town without first having applied for and obtained a permit to do so from the finance department. For the purposes of this article "any person" or "each person" means an individual and shall be considered in the singular; each person working for or acting as an agent or in any capacity for an individual, a partnership, a corporation, a company, or a business of whatever nature or kind, must apply for and obtain a permit as set out herein.

- (2) Any person who sells or offers to sell from his person, a cart, truck, automobile or other vehicle operated over and upon the streets and highways within the town any wares shall be deemed an itinerant merchant, peddler, solicitor, or transient vendor within the meaning of this article. Nothing in this section shall apply to the sale of farm products raised on the premises owned or occupied by the person or his bona fide agent or employee selling the same.
- (3) This article shall not apply to solicitation for charitable, civic, religious or patriotic purposes by persons who serve without compensation or remuneration, nor shall it apply to persons engaging in door-to-door advocacy of a religious, political or other cause where money or other valuable consideration is not being solicited, nor shall it apply to the distribution of religious or political handbills or pamphlets. Further, this article shall not apply to any person under the age of eighteen (18) years old who desires to offer a service only and who does so solely as a means of earning money for his or her own personal or family use on a short-term, temporary, basis such as and by example only, mowing lawns and raking leaves.
- (4) This article shall not apply where town merchants and/or proprietors of stores

display goods adjacent to their businesses for sale in front of their stores nor shall this article apply to any individual, business, or organization displaying goods for sale as part of a duly town-authorized festival or public event for which such goods are authorized to be sold.

(c) *Permit.*

(1) *Application.* Each person desiring a permit to engage in business as an itinerant merchant, peddler, solicitor, or transient vendor within the town shall make written application to the finance department at least five (5) working days before such person seeks to sell such person's wares, which application shall contain the following:

- a. The name, address, date of birth and Social Security number of the applicant and a vehicle description and tag number of the vehicle to be used by the applicant (if applicable);
- b. The name and address of the person/company, if any, that the applicant represents;
- c. An accurate and detailed description of the kind of wares offered for sale (no wares which are reasonably deemed dangerous or likely to cause damage by releasing projectiles or substances shall be permitted);
- d. Whether the applicant, upon any sale or order, shall demand, accept, or receive payment or deposit of money in advance of final delivery;
- e. The period of time such applicant wishes to engage in such business within the town;
- f. The police department will run the applicant's criminal record from North Carolina for acceptable evidence that the applicant has no North Carolina criminal record that would prohibit the issuance of a permit; if the applicant is found to have an out-of-state criminal history, the applicant may be

responsible for obtaining and submitting his fingerprints to provide a certified copy of his criminal history.

- g. The names of the last five (5) cities or towns wherein the applicant has worked before coming to the town and the dates of such work in said cities or towns and the addresses and dates of residence where the applicant has resided for the past five (5) years, such addresses to include physical addresses and not post office or mail drop boxes;
 - h. Information concerning whether the applicant is on, or has been on, parole or probation in North Carolina, any other state, or the federal government;
 - i. A list of any criminal offenses, other than minor traffic offenses, for which the applicant has been charged within the past ten (10) years. For purposes of this subsection, a "minor traffic offense" is an offense that is a violation of General Statutes Chapter 20, that is punishable as, or would be punishable as, an infraction in the State of North Carolina;
 - j. A permit will be issued to an approved applicant; the permit will only be valid if accompanied by an approved, government issued photo identification card.
- (2) *[Fee.]* A fee of one hundred dollars (\$100.00) must be paid before an application can be processed; payment of such fee is not a guarantee or promise that such application will be approved.
- (3) *[Permit required; rules.]* Each individual person desiring to engage in an activity defined as an itinerant merchant, peddler, solicitor, or transient vendor herein must obtain a permit. A permit is not transferable and cannot be used for the activities of another person working or acting on behalf of an applicant for a permit.

- (4) *[Falsification.]* Falsification of any matter on or provided as part of the application for a permit shall be grounds for immediate denial of the permit.
- (5) *Issuance.* No permit shall be issued under the provisions of this article until the applicant shall have complied with all the provisions and requirements of this article.
- (6) *Denial.* A permit can be denied for the same reasons that such permit can be revoked as set out in this article.
- (7) *Permitted hours.* A person issued a permit pursuant to this section shall not engage in the activity of itinerant merchant, peddler, solicitor, or transient vendor between the hours of 9:00 p.m. through 9:00 a.m. in residential areas; except in ballparks during recreational events but no later than fifteen (15) minutes after the event, except in town parks, venues, and facilities during town sponsored or approved events.
- (8) *Duration.* A permit shall be issued for the period requested in the application or for as long as the information on the face of the application is unchanged, provided however, no permit shall be issued for a period exceeding twelve (12) calendar months. Upon expiration of the permit due to time or to change in information, the applicant may apply for a renewal of the permit upon a form designated by the town, which shall indicate what changes, if any have occurred since the date the original application was completed. The finance department may renew and extend the permit for an additional term not to exceed twelve (12) calendar months. Each renewal or change in the application shall carry the same application fee of twenty-five dollars (\$25.00) and one dollar (\$1.00) for each certified copy.
- (9) *Contents.* Each permit issued under the provisions of this article shall be signed by the town employee issuing the permit shall be dated as of the date of its issuance, and shall state the duration or term of such permit on the face thereof. Any permit not dated and signed as required in this section, or which was issued in violation of this section, shall be void.
- (10) *Display.* Every itinerant merchant, peddler, solicitor, or transient vendor issued a permit under the provisions of this article and doing business within the town shall wear and display a town-approved permit in a manner clearly visible to anyone such person is approaching for the purpose of selling or attempting to sell such itinerant merchant, peddler, solicitor, or transient vendor's wares. Failure to display such permit as provided herein shall be deemed a misdemeanor as set out in subsection (f). In addition, the vehicle shall be clearly marked with the business name and the primary item(s) that are for sale on both sides of the vehicle. Lettering shall be a minimum of four (4) inches tall and be visible from, any service window or area.
- (11) *Possession and display of identification.* Any person while engaged in the activity of an itinerant merchant, peddler, solicitor, or transient vendor as set out in this article shall, in addition to displaying a valid permit, possess a current, verifiable form of photographic identification, including the mobile vendor ID card, and must present such identification upon either the request of a law enforcement officer or upon the request of any person approached by such itinerant merchant, peddler, solicitor, or transient vendor who is attempting to sell, or sells, his or her wares to such person requesting such identification. For purposes of this subsection, a "verifiable form of photographic identification" shall include, but not be limited to, a valid driver's license, passport, state issued identification card, or student identification card containing a recent photograph of such person.
- (12) *Revocation.* Any permit issued under the provisions of this article may be revoked by the chief of police or his designee for

the violation by the itinerant merchant, peddler, solicitor, or transient vendor permittee of any applicable provision of this article, state law or town ordinance, rule or regulation applicable to peddlers, or for the violation of any state or federal law as denoted below:

- (d) *Grounds for issuance/denial of permit.*
- (1) The chief of police, upon consideration of the application and a background check of the applicant, shall approve or reject the application.
 - (2) Any rejection shall be based on the following:
 - 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 narcotic or barbiturate drugs;
 - c. Addiction to or habitual use of alcoholic beverages or narcotic or barbiturate drugs;
 - d. Violation of any federal or state law relating to prostitution;
 - e. Noncitizenship in the United States;
 - f. Habitual violation of traffic laws or ordinances;
 - g. Any conviction for the possession, sale, or use of a weapon;
 - h. Any conviction for a sex offense, indecent exposure, or contributing to the delinquency of a minor;
 - i. Any conviction for a crime of fraud;
 - j. The applicant shall not be a registered sexual offender;
 - k. The application must be free of any fraud, misrepresentation, or any false statement; and
 - l. The applicant must satisfy all zoning requirements if activities take place on privately owned land.

(e) *Appeals.* An applicant may appeal the denial or revocation of a permit by submitting a written notice of appeal to the Garner Town Manager or designee, specifying with particularity the grounds upon which the appeal is based. An appeal shall be submitted no later than ten (10) days from the date of the denial or revocation of the permit in question. The town manager or designee shall fix a reasonable time for the hearing of the appeal, shall give due notice to all parties, and shall render a decision within a reasonable time. The town manager's or designee's decision shall be the town's final decision.

(f) *Misdemeanor.* A violation of this section shall be punishable as a class 3 misdemeanor by a fine of two hundred fifty dollars (\$250.00) for the first offense and five hundred dollars (\$500.00) for the second offense and subsequent offenses.

(g) *Other licenses or permits.* The provisions of this article shall not exempt the applicant from obtaining any other license or permit as may be required by law.
(Ord. No. 3680, § 1, 12-3-12; Ord. No. 3792, § 1, 10-20-15; Ord. No. (2022)5091, § 1, 1-3-22)

Editor's note—Section 1 of Ord. No. 3680, adopted Dec. 3, 2012, changed the title of § 9-40 from "Ordinances pertaining to peddlers, etc., not affected by Code" to "Itinerant merchants, peddlers, transient vendors and solicitors."

Sec. 9-41. Begging, solicitation or vehicle interference.

(a) Definitions.

- (1) *Aggressively beg* means begging which intimidates another person into giving money or goods.
- (2) *Beg* means to ask for money or goods as a charity, whether by words, bodily gestures, signs, or other means.
- (3) *Intimidate* means to intentionally say or do something, or to say or do something that a reasonable person should know, would cause a person of ordinary sensibilities to be fearful of bodily harm. For the purposes of this article, it is not necessary to prove that the victim was actually frightened, and neither is it necessary

to prove that the behavior of the person was so violent that it was likely to cause terror, panic or hysteria.

- (4) *Obstruct pedestrian traffic or vehicular traffic* means to walk, stand, sit, lie, or place an object in such a manner as to block passage by another person or vehicle, or to require another person or a driver of a vehicle to take evasive action to avoid physical contact. Acts authorized pursuant to the town's picketing and parade ordinances and regulations are exempt from the coverage of this article.
- (5) *Panhandle* means to ask for money or goods as a charity, whether by words, bodily gestures, signs, or other means in a public place.
- (6) *Public place* means an area generally visible to public view and includes alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks, and streets open to the general public, including those that serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

(b) *Provisions.*

- (1) It shall be unlawful for any person to beg upon the streets or elsewhere in the town without written permission from the chief of police or his/her designee. Permits may be obtained from the office of the chief of police, or his/her designee, between the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday. In the event a holder violates any provision of this article the chief of police or his/designee may revoke the holder's permit to beg.
- (2) It shall be unlawful for any person to stand, sit, or loiter in the right-of-way of any street, with the intent to approach any motor vehicle for the purpose of soliciting employment, business, or contribution from the driver or occupant of the motor vehicle.

- (3) It shall be unlawful for any person to aggressively beg or intentionally obstruct pedestrian or vehicular traffic in a public place.

- (4) It shall be unlawful for any person to engage in begging or panhandling at the following locations and times:

- a. Within one hundred (100) feet of any automatic teller machine or any other machine at which money is dispensed to the public.
- b. At any location between the hours of 9:00 p.m. and 8:00 a.m.

(c) *Penalty.* Begging, panhandling or pedestrian interference in any form is a misdemeanor, which may be punished by a fine of not to exceed one hundred dollars (\$100.00) or by imprisonment for not more than thirty (30) days. (Ord. No. 3023, § 1, 4-17-01; Ord. No. (2022)5091, § 1, 1-3-22)

Secs. 9-42—9-50. Reserved.

ARTICLE IV. CABLE TELEVISION SYSTEMS*

Sec. 9-51. Reserved.

Editor's note—Ord. No. 3753, adopted Dec. 1, 2014, repealed former § 9-51 which pertained to definitions, and derived from Ord. No. 1773, § 1, adopted April 5, 1982.

Sec. 9-52. Reserved.

Editor's note—Ord. No. 3753, adopted Dec. 1, 2014, repealed former § 9-52 which pertained to franchise required; application, and derived from Ord. No. 1773, § 2, adopted April 5, 1982.

***Editor's note**—Ord. No. 1773, adopted April 5, 1982, did not specifically amend the Code; hence, inclusion of §§ 1—15 as herein set out in §§ 9-51—9-65 was at the discretion of the editor.

Cross references—Streets and sidewalks, Ch. 15; buildings and building regulations, Ch. 19.

State law reference—Authority for these provisions, G.S. § 160A-311 et seq.

Sec. 9-53. Reserved.

Editor's note—Ord. No. 3753, adopted Dec. 1, 2014, repealed former § 9-53 which pertained to acceptance; indemnification; effective date, and derived from Ord. No. 1773, § 3, adopted April 5, 1982.

Sec. 9-54. Reserved.

Editor's note—Ord. No. 3753, adopted Dec. 1, 2014, repealed former § 9-54 which pertained to duration of franchise; termination; transfer, and derived from Ord. No. 1773, § 4, adopted April 5, 1982.

Sec. 9-55. Authority granted by franchise.

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) North Carolina State Building Code and building regulations enforced in the town.
- (Ord. No. 1773, § 5, 4-5-82; Ord. No. 3753, 12-1-14)

Sec. 9-56. Conditions to use streets and public ways.

(a) The poles used for a distribution system shall be those erected and maintained by either the power company or the telephone company or both whenever agreement can be reached with the owners of such poles. 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 such locations and depths and in such manner as shall be approved by the owner and the town manager. They shall be located so as to cause minimum interference with the proper use of streets and to cause minimum interference with the rights or reasonable convenience of the general public and of property owners who adjoin such streets.

(b) The installation of the facilities, including service drops to subscribers, shall be made underground in areas where facilities of the telephone company or the power company are underground or hereafter may be placed underground. In addition to the foregoing, installation of the facilities shall be made underground when required by town ordinances or policies.

(c) A 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 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 a grantee's installations resulting therefrom. A grantee shall carry out the instructions and directions of the town manager whenever it is necessary to raise or remove any of 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 such tree trimming or other maintenance work on grantee's cable as shall be required or as shall be directed by the town manager, all at the grantee's expense.

(d) 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 manager. 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 or approved types. (Ord. No. 1773, § 6, 4-5-82)

Sec. 9-57. Reserved.

Editor's note—Ord. No. 3753, adopted Dec. 1, 2014, repealed former § 9-57 which pertained to duration of permits; installation and service, and derived from Ord. No. 1773, § 7, adopted April 5, 1982.

Sec. 9-58. Reserved.

Editor's note—Ord. No. 3753, adopted Dec. 1, 2014, repealed former § 9-58 which pertained to duration of operational requirements, and derived from Ord. No. 1773, § 8, adopted April 5, 1982.

Sec. 9-59. Reserved.

Editor's note—Ord. No. 3753, adopted Dec. 1, 2014, repealed former § 9-59 which pertained to duration of interconnection of cable systems, and derived from Ord. No. 1773, § 9, adopted April 5, 1982.

Sec. 9-60. Reserved.

Editor's note—Ord. No. 3753, adopted Dec. 1, 2014, repealed former § 9-60 which pertained to renumeration to the town; franchise fee, and derived from Ord. No. 1773, § 10, adopted April 5, 1982.

Sec. 9-61. Reserved.

Editor's note—Ord. No. 3753, adopted Dec. 1, 2014, repealed former § 9-61 which pertained to preferential practices prohibited, and derived from Ord. No. 1773, § 11, adopted April 5, 1982.

Sec. 9-62. Reserved.

Editor's note—Ord. No. 3753, adopted Dec. 1, 2014, repealed former § 9-62 which pertained to emergency use of facilities, and derived from Ord. No. 1773, § 12, adopted April 5, 1982.

Sec. 9-63. Reserved.

Editor's note—Ord. No. 3753, adopted Dec. 1, 2014, repealed former § 9-63 which pertained to performance evaluation sessions, and derived from Ord. No. 1773, § 13, adopted April 5, 1982.

Sec. 9-64. Reserved.

Editor's note—Ord. No. 3753, adopted Dec. 1, 2014, repealed former § 9-64 which pertained to rights reserved to the town, and derived from Ord. No. 1773, § 14, adopted April 5, 1982.

Sec. 9-65. Reserved.

Editor's note—Ord. No. (2022)5091, § 3, adopted Jan. 3, 2022, repealed § 4-3, which pertained to violations and derived from Ord. No. 1773, § 15, adopted April 5, 1982; and Ord. No. 3753, adopted Dec. 1, 2014.

Chapter 10

MOTOR VEHICLES AND TRAFFIC*

Article I. In General

- Sec. 10-1. Definitions.
- Sec. 10-2. Applicability of chapter generally.
- Sec. 10-3. Application of chapter to persons propelling pushcarts.
- Sec. 10-4. Exemptions to authorize emergency vehicles.
- Sec. 10-5. Clinging to moving vehicles.
- Sec. 10-6. Motor vehicles to be listed for property taxes.
- Secs. 10-7—10-17. Reserved.

Article II. Licensing of Motor Vehicles

- Sec. 10-18. "Motor vehicles" defined.
- Sec. 10-19. Licensing by residents in newly annexed areas.
- Sec. 10-20. Required; period of license; fee; unlawful to operate unlicensed vehicle.
- Sec. 10-21. Display of number plate or sticker.
- Sec. 10-22. Plate or sticker to be issued; issuance of duplicate plate or sticker; fee for duplicates.
- Sec. 10-23. Transferability of sticker or plate.
- Secs. 10-24—10-34. Reserved.

Article III. Operation

- Sec. 10-35. Traffic-control signal legend.
- Sec. 10-36. Authority to erect traffic-control devices.
- Sec. 10-37. Obedience to traffic-control devices.
- Sec. 10-38. Flashing red and yellow signals.
- Sec. 10-39. Obedience to signs restricting turning movements.
- Sec. 10-40. Interfering with traffic-control devices.
- Sec. 10-41. Ordinances designating intersections where traffic-control lights required not affected by Code.
- Sec. 10-42. Stop intersection: Observance of sign required; intersections enumerated.
- Sec. 10-43. Ordinances designating through streets not affected by Code.
- Sec. 10-44. Intersections at which vehicles shall yield the right-of-way.
- Sec. 10-45. Turns at intersecting streets; unlawful procedure.
- Sec. 10-46. Turning at channelized intersection.
- Sec. 10-47. Reserved.
- Sec. 10-48. Speed restrictions.
- Sec. 10-49. Speed of vehicles on rails.
- Sec. 10-50. Driving on left of yellow line; yellow line to be placed on Perdue Street.
- Sec. 10-51. Driving on one-way streets.
- Sec. 10-52. Ordinances designating one-way streets not affected by Code.
- Sec. 10-53. Limitations on backing.
- Sec. 10-54. Driving through processions; applicability of section.
- Sec. 10-55. Driving over freshly painted directional signs.
- Sec. 10-56. Moving vehicles from stopped position.
- Sec. 10-57. Emerging from driveway, building.
- Sec. 10-58. Driving on sidewalks.

***Cross reference**—Vehicles for hire, Ch. 16.

State law references—Motor vehicles and traffic, generally, G.S. § 20-1 et seq.; general powers of local authorities relative to traffic, G.S. § 20-169; general authority for town to regulate traffic, G.S. § 160A-300.

GARNER CODE

- Sec. 10-59. Obstructing intersections, crosswalks.
- Sec. 10-60. Unlawful to fail to move vehicle for convenience of passersby.
- Sec. 10-61. Driving on play streets.
- Sec. 10-62. Driving through safety zone.
- Sec. 10-63. Driving in town parks.
- Sec. 10-64. Operating vehicle on streets for purpose of advertising.
- Sec. 10-65. Sounding horns, warning devices in quiet zones.
- Sec. 10-66. Use of city streets as through streets by commercial vehicles prohibited.
- Sec. 10-67. No through traffic.
- Secs. 10-68—10-76. Reserved.
- Sec. 10-77. Enforcement.

Article IV. Stopping, Standing and Parking

- Sec. 10-78. Police chief authorized to remove violating vehicles.
- Sec. 10-79. Civil enforcement of parking provisions.
- Sec. 10-80. Manner of parking generally.
- Sec. 10-81. Reserved.
- Sec. 10-82. General parking regulations for trucks and trailers.
- Sec. 10-83. Parking in specific places prohibited.
- Sec. 10-84. No parking zones.
- Sec. 10-84.1. No parking and fire lanes.
- Sec. 10-84.2. Owner, lessee to install, maintain no parking areas and fire lanes in private parking areas and driveways.
- Sec. 10-85. Parking zones for the handicapped.
- Sec. 10-86. Restricted parking.
- Secs. 10-87—10-96. Reserved.
- Sec. 10-97. Parking in loading zones.
- Sec. 10-98. Reserved.
- Sec. 10-99. Standing, parking of vehicle in right-of-way or roadway or street to display it for sale or perform maintenance on it.
- Sec. 10-100. Reserved.
- Sec. 10-101. Unlawful to permit vehicle to obstruct traffic.
- Sec. 10-102. Parking in emergency parking zones.
- Sec. 10-103. Residential parking permit zones.
- Sec. 10-104. Issuance and use of residential parking permits.
- Secs. 10-105—10-112. Reserved.
- Sec. 10-113. Enforcement.

Article V. Junked and Abandoned Motor Vehicles

- Sec. 10-114. Definitions.
- Sec. 10-115. Administration.
- Sec. 10-116. Abandoned vehicle unlawful; removal authorized.
- Sec. 10-117. Nuisance vehicle unlawful; removal authorized.
- Sec. 10-118. Junked motor vehicle regulated; removal authorized.
- Sec. 10-119. Right to inspect vehicles on private property.
- Sec. 10-120. Removal of abandoned, nuisance or junked motor vehicles; pretowing notice requirements, pretowing appeal.
- Sec. 10-121. Exceptions to prior notice requirement.
- Sec. 10-122. Removal of vehicles; post-towing notice requirements.
- Sec. 10-123. Owner responsible for removal costs.
- Sec. 10-124. Right to probable cause hearing before sale or final disposition of vehicle.
- Sec. 10-125. Redemption of vehicle during proceedings.
- Sec. 10-126. Sale and disposition of unclaimed vehicle.
- Sec. 10-127. Conditions on removal of vehicles from private property.
- Sec. 10-128. Protection against criminal or civil liability.

MOTOR VEHICLES AND TRAFFIC

- Sec. 10-129. Exceptions.
- Sec. 10-130. Unlawful removal of impounded vehicle.
- Sec. 10-131. Civil penalty provided.
- Sec. 10-132. Article cumulative.

ARTICLE I. IN GENERAL

Sec. 10-1. Definitions.

Words and phrases used in this chapter shall have the meanings respectively ascribed to them by Chapter 20 of the General Statutes of North Carolina.

(Ord. No. 1002, § 1(1), 4-6-59)

Sec. 10-2. Applicability of chapter generally.

This chapter relates to street traffic and use of streets, sidewalks, parking areas and adjacent areas in the limits of the town.

(Ord. No. 1002, § 1(2), 4-6-59)

Sec. 10-3. Application of chapter to persons propelling pushcarts.

Every person propelling any pushcart upon a roadway shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which by their very nature can have no application.

(Ord. No. 1002, § 1(4), 4-6-59)

Sec. 10-4. Exemptions to authorize emergency vehicles.

(a) The provisions of this chapter regulating the operation, parking and standing of vehicles shall apply to authorized emergency vehicles as defined in Sections 20-145 and 20-156 of the General Statutes of North Carolina, except that a driver when operating such a vehicle in an emergency, unless otherwise directed by a police officer, may:

- (1) Park or stand notwithstanding the provisions of this chapter.
- (2) Proceed past a red or a stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
- (3) Exceed the prima facie speed limits so long as he does not endanger life or property.

- (4) Disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(b) The foregoing exemptions shall not, however, protect the driver of any such vehicle from the consequences of his reckless disregard of the safety of others.

(Ord. No. 1002, § 1(3), 4-6-59)

State law reference—When speed limit not applicable, G.S. § 20-145.

Sec. 10-5. Clinging to moving vehicles.

Any person riding upon any bicycle, motorcycle, coaster, sled, roller skates or any toy vehicle shall not attach the same or himself to any moving vehicle upon any roadway.

(Ord. No. 1002, § 1(24), 4-6-59)

Sec. 10-6. Motor vehicles to be listed for property taxes.

It shall be unlawful for any owner of a motor vehicle situated within the town to fail to list the same for property taxes even though such vehicle is inoperable, dismantled, damaged, unregistered or junked.

(Ord. No. 1181, § 10, 5-21-68; Ord. No. 1204, § 1, 10-21-69)

Secs. 10-7—10-17. Reserved.

ARTICLE II. LICENSING OF MOTOR VEHICLES*

Sec. 10-18. "Motor vehicles" defined.

For the purposes of this article, "motor vehicles" shall mean self-propelled cars, trucks, buses, automobiles, motorcycles, motorbikes, or any other self-propelled vehicle that is required to have or display a license plate issued by the state.

(Ord. No. 1792, 7-20-82)

Sec. 10-19. Licensing by residents in newly annexed areas.

Residents of newly annexed areas have twenty (20) days to license their motor vehicles as outlined in this article.

(Ord. No. 1792, 7-20-82; Ord. No. 1940, § 1, 8-6-84)

Sec. 10-20. Required; period of license; fee; unlawful to operate unlicensed vehicle.

(a) Every resident motor vehicle operated in the town, except motor vehicles temporarily operated for a period of time not exceeding a total of twenty (20) days during any one year, and except motor vehicles operated for display or exhibition purposes by manufacturers or dealers and displaying dealers' license plates issued by the state, and except those members of the armed forces of the United States on duty within the town who have retained their domicile in some other place, and who are exempted as set forth in Title 50, U.S. Code, Section 574, shall be licensed by make and model with the town in the name of the owner or owners.

(b) The license period shall include the twelve (12) months beginning with the first day of January of the year of licensing, namely from the first day of January to the last day of December.

***Editor's note**—Ord. No. 1792, adopted July 20, 1982, which ordinance enacted §§ 10-18—10-23, becomes effective January 1, 1983. Ord. No. 1940, § 1, adopted Aug. 6, 1984, changed the title from "Registration" to "Licensing" of motor vehicles.

State law reference—Town authorized to levy tax on vehicles resident in town, G.S. § 20-97.

Vehicles owned on the first day of January shall be licensed with the town on or before the fifteenth day of February.

(c) The license fee shall be per year per vehicle, not prorated for portions of a year.

(d) It shall be unlawful to operate within the town any motor vehicle which has not been licensed as required by this section.

(Ord. No. 1792, 7-20-82; Ord. No. 1868, 7-19-83; Ord. No. 1940, § 1, 8-6-84; Ord. No. 2357, § 4, 5-16-89)

Sec. 10-21. Display of number plate or sticker.

Every motor vehicle operated on the streets of the town for which licensing is required shall, throughout the year, display the town-assigned numbered license plate or sticker in such manner as to be clearly visible at all times.

(Ord. No. 1792, 7-20-82; Ord. No. 1940, § 1, 8-6-84)

Sec. 10-22. Plate or sticker to be issued; issuance of duplicate plate or sticker; fee for duplicates.

(a) For every motor vehicle licensed, there shall be issued to the person licensing the same an appropriate number plate or sticker.

(b) Upon satisfactory evidence that any such license plate or sticker has been lost or destroyed, the town shall issue a new plate or sticker to the owner or operator of such vehicle for one-half the original charge.

(Ord. No. 1792, 7-20-82; Ord. No. 1940, § 1, 8-6-84)

Sec. 10-23. Transferability of sticker or plate.

A number plate or sticker issued in accordance with this article shall not be transferred from one individual to another, and it shall not be used by any person upon any motor vehicle except upon the one for which it was issued; provided, however, that upon the sale or exchange of the vehicle for which the number plate or

sticker was issued, the owner thereof may transfer the number plate or sticker to a new or any other vehicle owned by him.
(Ord. No. 1792, 7-20-82)

Secs. 10-24—10-34. Reserved.

ARTICLE III. OPERATION

Sec. 10-35. Traffic-control signal legend.

Whenever traffic is controlled by traffic-control signals exhibiting the word "Go," "Caution" or "Stop," or exhibiting differently colored lights, successively, one at a time, the following colors only shall be used, and such terms and lights shall indicate as follows:

- (a) *Green alone or "Go."*
 - (1) Vehicular traffic facing the signal may proceed straight through, or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection at the time such signal is exhibited.
 - (2) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.
- (b) *Yellow alone or "Caution" when shown following the green or "Go" signal.*
 - (1) Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection, but if such stop cannot be made in safety, a vehicle may be driven cautiously through the intersection.
 - (2) Pedestrians facing such signal are thereby advised that there is insufficient time to cross a roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.
- (c) *Red alone or "Stop."*
 - (1) Vehicular traffic facing the signal shall stop before entering the near-

est crosswalk at an intersection, or at such other point as may be indicated by a clearly visible line, and shall remain standing until green or "Go" is shown alone.

- (2) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(d) *Red with green arrow.*

- (1) Vehicular traffic facing such signal may cautiously enter the intersection, only to continue movement in the direction indicated by such arrow, but shall not interfere with other traffic.

- (2) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(Ord. No. 1002, § 1(5)(A—C), 4-6-59)

State law reference—Authority for town to regulate traffic signaling devices, G.S. § 20-169.

Sec. 10-36. Authority to erect traffic-control devices.

The town engineer is hereby authorized to have erected stop signs, yield right-of-way signs, no parking signs, loading zone signs, one-way street signs and other traffic-control and parking control signs as are provided for in this chapter in accordance with the *Manual on Uniform Traffic Control Devices For Streets and Highways*, or any subsequent revisions of the same, published by the U.S. Department of Transportation Federal Highway Administration.

(Ord. No. 1002, § 1(29), 4-6-59; Ord. No. 2092, § 1, 7-7-86)

State law reference—Installation, erection of traffic-control devices, generally, G.S. § 20-169.

Sec. 10-37. Obedience to traffic-control devices.

The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto, placed in accordance with this chapter,

unless otherwise directed by a police officer, subject to the exceptions granted in this chapter. (Ord. No. 1002, § 1(5), (29), 4-6-59)

Sec. 10-38. Flashing red and yellow signals.

Whenever flashing red or yellow signals are used, they shall require obedience by vehicular traffic as follows:

(a) *Flashing red (stop signal).* When a red lens is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection, or at a limit line when marked, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) *Flashing yellow (caution signal).* When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(Ord. No. 1002, § 1(5)(d), (g), 4-6-59)

Sec. 10-39. Obedience to signs restricting turning movements.

Whenever authorized signs are erected indicating that no right turn, left turn or U-turn is permitted, no driver of a vehicle shall disobey the directions of any such signs, and when authorized marks, buttons or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications.

A sign indicating the following turning movement restriction shall be installed and enforced as set forth in this section:

(1) No left turn from 2:30 p.m. to 3:45 p.m. during school days on Bryan Street at the entrance to North Garner Middle School.

(Ord. No. 1002, § 1(6), 4-6-59; Ord. No. 3707, § 1, 9-3-13)

State law reference—Local authority to regulate turning at intersections, G.S. § 20-153(c).

Sec. 10-40. Interfering with traffic-control devices.

No person shall, without lawful authority, attempt to, or in fact, alter, deface, injure, knock down or remove any official traffic-control device or any railroad sign or signal, or any inscription, shield or insignia thereon, or any part thereof. (Ord. No. 1002, § 1(14), 4-6-59)

Sec. 10-41. Ordinances designating intersections where traffic-control lights required not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinances designating intersections at which traffic-control lights shall be installed, and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Sec. 10-42. Stop intersection: Observance of sign required; intersections enumerated.

(a) Those intersections described in paragraph (b) are hereby declared to be stop intersections when stop signs are placed, erected or installed at such intersections, and each driver of a vehicle shall stop in obedience to such signs before entering the intersection, and shall not proceed into or across the through street until he has first determined that no conflict with traffic will be involved.

(b) There are hereby established the following stop intersections in the town:

<i>Stop Street</i>	<i>Through Street</i>
Acentala Court	Seastone Street
Ackerman Road	Hidden Fox Path
Acropolis Place	Annotto Bay Lane
Acropolis Place	Hay River Street
Adeline Way	Timber Drive East
Adrian Drive	Beichler Road
Ainsworth Street	Flanders Street
(east)	
Ainsworth Street	Flanders Street
(west)	
Alaverde Way	Hay River Street

<i>Stop Street</i>	<i>Through Street</i>	<i>Stop Street</i>	<i>Through Street</i>
Alderbranch Circle	Alderbranch Circle	Belhaven Street	Avery Street
Alderbranch Circle (2 stop signs)	Majestic Peak Drive	Bellarose Lake Way	NC 50
Alta Crest Lane	Tryon Pointe Drive	Belleforte Park Circle	Edmer Lane
Amber Acorn Avenue	Misty Pike Drive	Belleforte Park Circle	Gunderson Lane
Amber Acorn Avenue	Ten-Ten Road	Bellfare Drive	Ackerman Road
Amberhill Court	Buckhorn Road	Belmont Ridge Drive	New Rand Road
Annaron Court	U.S. 401	Belmont Ridge Drive	Oakton Ridge Place
Anise Lane	Royal Star Way	Belmore Circle	Hadrian Drive
Anton Way	Ackerman Road	Bending Creek Drive	New Bethel Church Road
Arbor Greene Drive	N.C. Highway 50	Bending Creek Drive	Squirrel Oaks Lane
Artesian Drive	Brook Rock Lane	Benfield Court	McKay Place
Artesian Drive	Forest Landing Drive	Benfield Court	Old Scarborough Lane
Ashbourne Court (existing)	Bainbridge Circle	Benning Hills Place	Vandora Hills Place
Ashlyn Ridge Drive	Old Garner Road	Bentpine Drive	Crosspine Drive
Atchison Street	N.C. 50	Berry Mill Lane	Augusta Pond Way
Auburn Village Boulevard	Auburn Knightdale Road	Berryfield Lane	Aversboro Road
Audrey Court	Kentucky Drive	Berryfield Lane	Summers Walk Circle
Avenue at White Oak	Garner Road	Binford Court	Flanders Street
Aversboro Road	Old Scarborough Lane	Bingham Creek Drive	Roaring Creek Drive
Aversboro Road	Seventh Avenue	Bison Park Drive	Buffaloe Grove Land
Avery Street	Curtiss Drive	Bison Park Drive	Orchard Peach Road
Avery Street	Johnson Street	Blacktail Deer Lane	Clifford Road
Avery Street	State Road 1004	Blacktail Deer Lane	Pronghorn Deer Court
Axis Deer Lane	Bryan Road	Blackthorne Place	Chapwith Road
Axis Deer Lane	Whitetail Deer Lane	Blanton Street	Timber Drive
Axum Road	Meadow Road	Blossom Creek Drive	Roaring Creek Drive
Ayshire Place	Dunhaven Drive	Bluegrass Drive	Edgewood Drive
Azure Bloom Drive	Amber Acorn Avenue	Bonica Creek Drive	Buffaloe Road
Azure Bloom Drive	Caddy Road	Botanical Bend	Savannah Moss Way
Bagwell Street	Main Street	Botanical Bend (northbound)	Rock Maple Lane
Bagwell Street	Smith Drive	Botanical Bend (southbound)	Rock Maple Lane
Bainbridge Circle (existing)	Bainbridge Circle	Bournemouth Lane (existing)	New Rand Road
Bainbridge Circle (existing)	New Rand Road	Bournemouth Lane	Bainbridge Circle
Barbara Drive	Lakeside Drive	Briar Rose Lane	Thompson Road
Barbara Drive	Phillip Street	Bricksteel Drive	Raynor Road
Barefoot Street	Forest Drive	Bridgewood Court	Foley Drive
Barslund Court	Kentucky Drive	Brittmoore Court	Rand Road
Beckworth Court	Brompton Lane	Brockton Ridge Drive	Gatewood Ridge Court
Beckworth Court	Woodland Road	Brockton Ridge Drive	Oakton Ridge Place
Beebrush Way	White Oak Garden Way	Brompton Lane	Timber Drive
Beebrush Way (west)	Beebrush Way (north)	Brompton Lane	Woodland Road (SR 2715)
Beichler Road	Vandora Springs Road	Brook Rock Lane	Winding Brook Road
		Brooks Avenue	Aversboro Road

Stop Street

Brooks Avenue
 Brookshade Circle
 Brookstone Court
 Brookwynd Court
 Broughton Street
 Broughton Street
 Bruceмонт Drive
 Bryan Street
 Bryan Street
 Buck Branch Drive
 Buckhorn Road
 Buckhorn Road
 Buckhorn Road (east)
 Buckhorn Road (west)
 Buckingham Road
 Buckingham Road
 Buffaloe Grove Lane
 Buffaloe Grove Lane
 Buffaloe Springs
 Street
 Bugenfield Court
 Burchcrest Drive (N)
 Burchcrest Drive (S)
 Burnham Court
 Bushbury Court
 Butler Drive
 Butler Drive
 Cabot Street
 Camfield Place
 Canary Court
 Cane Creek Drive
 (access drive)
 Cane Creek Drive
 Capertree Lane
 Capital View Street
 Carroll Drive
 Carroll Drive
 Cascade Place
 Cashiers Street
 Cashmere Court
 Cason Street (west)
 Cason Street

Through Street

Francis Drive
 Gussett Drive
 Springview Trail
 Thompson Road
 Powell Drive
 State Road 1004
 Timber Drive
 Avery Street
 Curtis Drive
 Springview Trail
 Amberhill Court
 Ford Gates Drive
 Ford Gates Drive
 Ford Gates Drive
 Claymore Drive
 Timber Drive
 Buffaloe Road
 Buffaloe Springs
 Street
 Orchard Peach Road
 Burchcrest Drive
 Beckworth Court
 Beckworth Court
 Atchison Street
 Forest Landing Drive
 Dupree Street
 Forest Drive
 Flanders Street
 Dunhaven Drive
 Auburn Village
 Boulevard/Azure
 Mist Drive
 Cane Creek Drive
 (through street)
 Buffalo Road (SR
 2711)
 Tallowood Drive
 SR 1004 (Garner
 Road)
 Main Street
 U.S. Highway 70
 Dunhaven Drive
 November Street
 Auburn Village
 Boulevard
 Meadowbrook Drive
 Northview Street

Stop Street

Castill Place
 Castle Manor Court
 Cedar Cone Court
 Cedar Key Landing
 Cedar Lane
 Center Street
 Challenge Road
 Chapwith Road
 Cheney Court
 Chesapeake Commons
 Street
 Chillingham Road
 Chillingham Road
 Choyce Court
 Cinder Cross Way
 Cinder Cross Way
 Cinder Cross Way
 Circle Drive
 Clayfield Drive
 Clayfield Drive
 Claymore Drive
 Clifton Street
 Coachman Drive
 Coachman Drive
 Coalyard Drive
 Coalyard Drive
 Cobb Street
 Cobb Street
 Coefield Alley
 Comelio Drive
 Comelio Drive
 Competition Road
 Competition Road
 Constantine Court
 Constrata Court
 Corwin Road
 Corwin Road
 Corwin Road
 Covington Chase
 Court
 Cranston Road
 Cravenridge Road
 Cravenridge Road
 Creech Road
 Creek Commons
 Avenue

Through Street

Timber Drive
 Buckingham Road
 Majestic Peak Drive
 Arbor Green Drive
 State Road 1004
 State Road 1004
 Seastone Street
 Timber Drive
 Buckingham Road
 White Oak Garden
 Way
 Buffaloe Road (SR
 2711)
 Hadrian Drive
 November Street
 Fare Stone Drive
 Stationford Way
 Steel Hopper Way
 State Road 2162
 Oldefield Lane
 White Deer Trail
 Bruceмонт Drive
 Forest Drive
 Buckingham Road
 Timber Drive
 Ackerman Road
 Woodtrestle Way
 Meadowbrook Drive
 Southerland Road
 State Road 1004
 Cindy Drive
 Parkwood Drive
 Old Stage Road
 Waterville Street
 Southerby Drive
 Muirfield Ridge Drive
 Cranston Road
 Dellwood Road
 Meadowbrook Drive
 Vandora Hills Place
 Southerland Road
 Buffaloe Road (SR
 2711)
 Dunhaven Drive
 State Road 1004
 Avery Street

<i>Stop Street</i>	<i>Through Street</i>	<i>Stop Street</i>	<i>Through Street</i>
Creekbank Court	Skipping Rock Lane	Emerald Glade Court	Buckhorn Road
Creekbrook Court	Avery Street	Emory Street	Jones Street
Creekchannel Court	Creekbrook Court	Emory Street	Main Street
Creekline Court	Winding Brook Drive	English Violet Lane	Desert Sand Lane
Crestwood Drive	State Road 2162	Evolve Drive	NC 50
Crooked Branch Court	Skipping Rock Lane	Exit, Forest Glenn	
Cullen Place	Brims Way	Health Care Center	Hartwell Street
Cupp Court	Solheim Lane	(driveway)	
Cushendun Lane	Dreyfus Court	Exit, Forest Hills	
Dabney Ridge Drive	Brockton Ridge Drive	Apartment Complex	Hartwell Street
Delbridge Street	Aversboro Road	(driveway)	
Delbridge Street	Butler Drive	Fairside Court	Hutchins Drive
Dellwood Road	Woodside Road	Falkirk Place	Cravenridge Road
Delta Street (private)	Weston Road (SR	Falling Creek Court	Forrest Landing Drive
	2541)	Fare Stone Drive	Coalyard Drive
Demos Circle	Gussett Drive	Fare Stone Drive	Steel Hopper Way
Denison Way	Jones Sausage Road	Farnham Court	Artesian Drive
Denison Way	Kimeo Way	Farr Court	Brims Way
Depot Ridge Road	Bellfare Drive	Faye Drive	Beichler Road
Dereham Lane	Valleycruise Circle	Fifth Avenue	Aversboro Road
Desert Sand Lane	Azure Mist Drive	Fifth Avenue	Vandora Springs Road
Desert Sand Lane	English Violet Lane	Flanders Street	Buckingham Road
	(4-way stop)	Fletcher Drive	Forestdale Road
Devon Court	Rolling Ridge Circle	Fletcher Drive	Greenbrier Road
Dockrail Court	Steel Hopper Way	Foggy Morning Court	Cane Creek Drive
Drexmere Street	McCormick Street	Foley Drive	N.C. 50
Drexmere Street	U.S. 70		Stapleton Drive
Dreyfus Court	Misty Meadow Lane		(south)
Dunhaven Drive	Buffaloe Road (SR	Foley Drive	Buckhorn Road East
	2711)	Ford Gates Drive	Buckhorn Road South
Dunnsbee Drive	Southerby Drive	Ford Gates Drive	Woodland Road (SR
Dynamic Road	Mechanical Boulevard		2715)
Eagle Rare Lane	White Oak Ridge	Forest Drive	Aversboro Road
	Drive	Forest Drive	Francis Drive
Eagle Tavern Drive	Chapwith Road	Forest Drive	State Road 2162
Eagle Tavern Drive	Tarpley Way	Forest Landing Drive	N.C. Highway 50
Easton Court	Tiffany Circle	Forestdale Road	Greenbrier Road
Easy Wind Lane	Easy Wind Lane	Forestdale Road	Winterlochen Road
Edenberry Court	Misty Meadow Lane	Fowler Drive	Kelly Road
Edgebrook Drive	Fowler Drive	Fowler Drive	Kenbrook Drive
Edgebrook Drive	Kennon Road	Fowler Drive	Pineview Drive
Edgebrook Drive	Sycamore Drive	Fowler Drive	Vandora Springs Road
Edmer Lane	Gunderson Lane	Francis Drive	Lakeside Drive
Edmer Lane	Laporte Path	Francis Drive	Vandora Avenue
Elk Stone Trail	Bryan Road	Francis Drive	Wade Avenue
Elk Stone Trail	Pecan Harvest Drive	Frederick Road	Lakeside Drive
Elkhorn Road	Ford Gates Drive	Frederick Road	Vandora Springs Road
Elkhorn Road	Timber Drive		

<i>Stop Street</i>	<i>Through Street</i>	<i>Stop Street</i>	<i>Through Street</i>
Frosted Iris Lane (east)	Chesapeake Commons Street	Griffin Street	Main Street
Frosted Iris Lane (east)	Frosted Iris Lane (north)	Gulley Glen Drive	Heather Park Drive
Frosted Iris Lane (west)	Chesapeake Commons Street	Gunderson Lane	Belleforte Park Circle
Frosted Iris Lane (west)	Frosted Iris Lane (north)	Gunderson Lane	New Bethel Church Road
Full Moon Court	Garden Retreat Drive	Gussett Drive	Lager Lane
Garden Retreat Drive	Arbor Greene Drive	Hadrian Court	Old Scarborough Lane
Garner Station Boulevard	Rupert Road	Hadrian Drive (northern intersection)	Old Scarborough Lane
Garner Townes Lane	Foxwood Drive	Hadrian Drive (southern intersection)	Old Scarborough Lane
Garner's Station Boulevard	Junction Boulevard	Hall Boulevard	Oakwater Drive
Gatewoord Ridge Court	Belmont Ridge Drive	Hall Boulevard	Vandora Springs Road
Gentle Rio Court	Havenview Court	Halstead Circle	Blanton Street
Gentle Rio Court	Quiet Refuge Lane	Hamby Court	Chapwith Road
Gila Road	Squirrel Oaks Lane	Harper Street	State Road 1004
Glen Meadow Court	Villa Drive	Harpers Landing Road	Clifford Road
Glenn Bryan Court	Villa Drive	Harth Drive	Atchinson Drive
Glenview Court	Springview Trail	Harth Drive	Timber Drive
Golden Fawn Court	Axis Deer Lane	Hartwell Street	Seventh Avenue
Golden Isles Avenue	Botanical Bend	Havencrest Landing	Villavista Trace
Golden Isles Avenue	Red Myrtle Court	Havencrest Landing	Westonridge Run
Golden Isles Avenue (eastbound)	Georgia's Landing Parkway	Havenview Court	Quiet Refuge Lane
Golden Isles Avenue (westbound)	Georgia's Landing Parkway	Hay River Street	Sanderford Road
Gosford Lane	Gilder Woods Drive	Hazy Hills Lane (2 stop signs)	Majestic Peak Drive
Gosford Lane	Kinton Woods Way	Heather Bluffs Drive	Hadrian Drive
Gottwald Court	Navan Lane	Heather Bluffs Drive	Kimloch Drive
Grail Place	Heather Bluffs Drive	Heather Park Drive	Aversboro Road (SR 2710)
Grand Mesa Drive	Squirrel Oaks Lane	Heatherwood Drive	Buckingham Road
Green Hill Court	Arbor Green Drive	Heatherwood Drive	Claymore Drive
Green Springs Drive	Willow Vista Road	Hein Drive	Raynor Road
Green Trace Court	North Greenfield Parkway	Hein Drive	Sigma Drive
Greenbrier Road (north)	Winterlochen Road	Hemlock Falls Trail	Berry Mill Lane
Greenbrier Road (south)	Maxwell Road	Hiddenwood Court	Beckworth Court
Greenbrier Road (south)	Winterlochen Road	Highland Road	Lakeside Drive
Greenbrier Road	Comelio Drive	Highland Road	Park Avenue
Greenbrier Road	Vesta Drive	Hilltop Avenue	Dupree Street
Griffin Street	Jones Street	Hilltop Avenue	St. Mary's Street
		Hoch Cove	Umstead Lane
		Holman Drive	St. Mellion Street
		Holyoke Court	New Rand Road
		Honorable Place	Waterville Street
		Hoyne Way	Brittmoore Court
			Scoville Road

Stop Street

Hutchins Drive
 Hutchins Drive
 Indigo Dusk Way
 Indigo Dusk Way
 Ivory Lane
 Jacklin Court
 Jessup Drive
 Jessup Drive
 Johnson Street
 Johnson Street
 Johnson Street
 Jones Sausage Road
 (SR 2547)
 Jones Street
 Junction Boulevard
 Junction Boulevard
 Jungle Green Drive
 Jungle Green Drive
 Karlov Road
 Kelly Road
 Kelly Road
 Kelly Road
 Kenbrook Drive
 Kennon Drive
 Kennon Road
 Kentucky Drive
 Kentucky Drive
 Key Biscayne Court
 Kim Bark Path
 Kimeo Way
 Kimloch Drive
 Kimloch Drive
 Kimberwood Court
 Kinton Woods Way
 Klamath Drive
 Lager Lane
 Lake Drive
 Lake Drive
 Lakeside Drive
 Lakeside Drive
 Lakeside Drive
 Lamesa Drive
 Lamesa Drive
 Lanercost Court
 Laporte Path
 Laurensfield Court

Through Street

Buckingham Road
 South Wade Avenue
 Amber Acorn Avenue
 Misty Pike Drive
 Sea Foam Drive
 Okamoto Street
 Highway 70
 Winterlochen Road
 Curtiss Drive
 Powell Drive
 State Road 1004
 Garner Road (SR
 1004)
 Bagwell Street
 Garner's Station
 Boulevard
 Tryon Road
 Canary Court
 Ivory Lane
 Squirrel Oaks Lane
 Meadowbrook Drive
 Southerland Road
 Woodland Road
 Edgebrook Drive
 Park Avenue
 Fowler Drive
 N.C. 50
 New Rand Road
 Locke Woods Road
 Belleforte Park Circle
 Ashlyn Ridge Drive
 Hadrian Drive
 Old Scarborough
 Drive
 Westwood Drive
 Minglewood Drive
 Squirrel Oaks Lane
 Vandora Springs Road
 Dullis Circle
 State Road 2162
 Aversboro Road
 State Road 2162
 Vandora Springs Road
 Forestdale Road
 Greenbrier Road
 Hadrian Drive
 Rossell Park Circle
 Waterfield Drive

Stop Street

Lawndale Street (east)
 Lawndale Street
 (northbound)
 Lawndale Street
 Lawndale Street
 Leary Drive
 Leclair Circle
 Lemoyne Court
 Lennei Lane
 Lennox Place Circle
 Lennox Rd.
 Leota Drive
 Leota Drive
 Lilliflora Lane
 Lilliflora Lane
 Lisburn Court
 Locke Woods Road
 Longbay Street
 Longneedle Court
 Lorraine Drive
 Luxorwind Drive
 Lyle Road
 Lyme Court
 Mabry Place
 MacKay Place
 Madrid Court
 Magenta Rose Drive
 Magenta Rose Drive
 Magnolia Park Drive
 Mahogany Run
 Mahogany Run
 Mahogany Run
 Main Street
 Main Street
 Main Street
 Majestic Peak Drive
 Management Way
 Maplewood
 Maplewood

Through Street

Lakeside Drive
 Lakeside Drive
 Lakeside Drive
 (southbound traffic)
 State Road 2162
 Flanders Street
 Rossell Park Circle
 Gunderson Lane
 Magnolia Park Drive
 Garner's Station
 Boulevard
 Hall Boulevard
 Vesta Drive
 Winterlochen Road
 Wood Orchid Lane
 Yellow River Way
 Misty Meadow Lane
 Challenge Road
 Hay River Street
 Vesta Drive
 Lakeside Drive
 Thompson Road
 Mickleson Ridge Drive
 Ryerson Drive
 Coachman Drive
 Benfield Court
 Timber Drive
 Auburn Knightdale
 Road
 Azure Mist Drive
 New Bethel Church
 Road
 Auburn Village
 Boulevard
 Auburn Village
 Boulevard/Azure
 Mist Drive
 Mahogany Run (2-way
 stop)
 New Rand Road
 Rand Mill Road
 (existing condition)
 State Road 2162
 Ackerman Road
 U.S. 70
 Kelly Road
 Pineview Drive

<i>Stop Street</i>	<i>Through Street</i>	<i>Stop Street</i>	<i>Through Street</i>
Maplewood	Valley Road	New Dawn Court	Bonica Creek Drive
Maraketch Court	Waterville Street	New Fidelity Court	Yeargan Road
Margo Circle	Flanders Street	New Haven Court	Buffaloe Road (SR 2711)
Marketgate Way	Easy Wind Lane	New Rand Road (SR 2562)	N.C. 50
Marketgate Way	Hadrian Drive	New Rand Road	Highway 70
Maroon Court	Desert Sand Lane	New Rand Road	State Road 1004
Maroon Court	English Violet Lane	Nicholson Road	Chapwith Road
Maroon Court	Maroon Court (2-way stop)	Nicholson Road	Timber Drive
Marykirk Place	Hadrian Drive	Northview Street	SR 1004 (Garner Road)
Maxwell Drive	Greenbrier Road	Northwood Circle	Vandora Avenue
McCormick Street	Mechanical Boulevard	November Street	Atchison Street
McCormick Street	U.S. 70	Oak Circle	Aversboro Road
McDonald Avenue	Lennox Road	Oak Circle	Vandora Springs Road
McLellan Drive	Baldwin Circle	Oak Hollow Court	Artesian Drive
McLellan Drive	Harth Drive	Oaklantern Court	Oakwater Drive
McNaughton Court	Kimloch Drive	Oakwater Drive	Woodland Road (SR 2715)
Meadowbark Bend	Chesapeake Commons Street	Okamoto Street	Seastone Street
Mediate Drive	Competition Road	Old Buckhorn Road	Elkhorn Road
Medical Park Court	U.S. Highway 70 East	Old Forester Street	White Oak Ridge Drive
Mercer Court	November Street	Old Rose Path	Bison Park Drive
Mickleson Ridge Drive	Okamoto Street	Old Rose Path	Buffaloe Grove Lane
Millington Way	Nicholson Road	Old Scarborough Lane	Aversboro Road
Millington Way	Stefi Court	Old Scarborough Lane	Buffaloe Road (SR 2711)
Minglewood Drive	Aversboro Road	Old Scarborough Lane	Hadrian Drive (northern intersection)
Minglewood Drive	Easy Wind Lane	Olde Manor Lane	Aversboro Road
Miriam Avenue	Vandora Springs Road	Oldefield Lane	Aversboro Road
Misty Meadow Lane North	Buffaloe Road	Oldefield Lane	White Deer Trail
Misty Pike Drive	Amber Acorn Avenue	Olivine Drive	Magenta Rose Drive
Misty Pike Drive	Tawny Slope Court	Olive Court	Tryon Pointe Drive
Monabreeze Way	Luxorwind Drive	Olmstead Court	Tiffany Circle
Monabreeze Way	Thompson Road	Omaha Falls Court	Preakness Farm Drive
Montague Street	Main Street	Orna Circle	Buckingham Road
Moon Water Way	Cane Creek Drive	Ottawa Drive	Squirrel Oaks Lane
Morris Industrial Drive	U.S. 70	Owensboro Court	Waterville Street
Muirfield Ridge Drive	Creek Commons Avenue	Owensby Drive	Southerby Drive
Munnsee Court	Shoals Lane	Park Avenue	Lakeside Drive
Murphy Chambers Farm Road	Potomac River Street	Park Avenue	Vandor Springs Road
Navan Lane	Buffaloe Road	Parker Street	Montague Street
Naylor Creek Place	Coalyard Drive	Parker Street	Pearl Street
Nellane Drive	Poplar Avenue	Parkhaven Street	Johnson Street
Nellane Drive	Vandora Avenue		
Nellane Drive	Wade Avenue		

Stop Street

Parkwood Drive
 Pasadena Road
 Pasadena Road
 Pearl Street
 Penderbrook Court
 Penny Street
 Penrite Court
 Perdido Court
 Perdue Street
 Pet Finder Lane
 Phillip Street
 Phillip Street
 Pine Winds Drive
 Pine Winds Drive
 Pinery Circle
 Pineview Drive
 Pineway Street
 Pinkie Lane
 Plumas Drive
 Plumgrove Street
 Poole Drive
 Poole Drive
 Poplar Avenue
 Poplar Avenue
 Poplar Avenue
 Potomac River Street
 Powell Drive
 Preakness Farm Drive
 Preakness Farm Drive
 Purser Drive
 Purvis Street
 Purvis Street
 Queen Street
 Queensbury Court
 Quiet Refuge Lane
 Quiet Refuge Lane
 Rand Mill Road
 Rand Mill Road
 Randall Road
 Randall Road
 Red Caboose Court
 Red Lake Street
 Red Lake Street
 Red Myrtle Court
 (northbound)
 Red Myrtle Court
 (southbound)

Through Street

Winterlochen Road
 Hay River Street
 Longbay Street
 Main Street
 Coalyard Drive
 State Road 1004
 Chillingham Road
 Foley Drive
 State Road 1004
 Withers Road
 Avershoro Road
 Lakeside Drive
 Crosspines Drive
 U.S. 401
 Gussett Drive
 Woodland Road
 Buffalo Road (SR
 2711)
 Magnolia Park Lane
 Squirrel Oaks Lane
 Westcroft Drive
 Aversboro Road
 Buckingham Road
 Francis Drive
 Lakeside Drive
 Wade Avenue
 Harpers Landing Road
 Avery Street
 New Rand Road
 Oakton Ridge Place
 U.S. 401
 Main Street
 Montague Street
 Aversboro Road
 Buckingham Road
 Grassy Rio Lane
 Yeargan Road
 Main Street
 New Rand Road
 Meadowbrook Drive
 Southerland Road
 Bellfare Drive
 Hay River Street
 Longbay Street
 Rock Maple Lane
 Rock Maple Lane

Stop Street

Red River Drive
 Reno Avenue
 River Pearl Street
 Roan Drive
 Roan Drive
 Roan Drive
 Roan Drive
 Roaring Creek Drive
 Rock Fish Lane
 Rock Maple Lane
 (eastbound)
 Rock Maple Lane
 (westbound)
 Rocky Branch Court
 Rollingridge East
 Rollingridge West
 Rose Common Court
 Rosinton Court
 Roxanne Drive
 Roxanne Drive
 Roxanne Drive
 Ryder Cup Circle
 Ryerson Drive (east)
 Ryerson Drive (west)
 Saddle Ridge Court
 Saint Lawrence Lane
 Sambar Deer Lane
 Savannah Moss Way
 Savannah Moss Way
 Scarlet Green Court
 Scotts Court
 Scoville Road
 Scoville Road
 Sea Foam Drive
 Seastone Street
 Seastone Street
 Shady Birch Lane
 Shady Hollow Lane
 Shady Summit Way
 Shoals Lane
 Sida Deer Lane
 Sigma Drive
 Sika Deer Lane
 Silverhill Court
 Small Pine Drive

Through Street

Squirrel Oaks Lane
 Longbay Street
 Competition Road
 Cossack Circle
 Gaffer Street
 Gusset Drive
 Teak Circle
 Rand Road
 Skipping Rock Lane
 Georgia's Landing
 Parkway
 Georgia's Landing
 Parkway
 Tryon Pointe Drive
 Spring Drive
 Spring Drive
 Arbor Green Drive
 Stapleton Drive
 Forestdale Road
 Greenbrier Road
 Winterlochen Road
 Solheim Lane
 Tiffany Circle
 Tiffany Circle
 Forest Landing Drive
 Squirrel Oaks Lane
 Whitetail Deer Lane
 Augusta Pond Way
 Georgia's Landing
 Parkway
 Arbor Greene Drive
 Timber Drive
 Belleforte Park Circle
 New Bethel Church
 Road
 Auburn Village
 Boulevard
 Competition Road
 Locke Woods Road
 Misty Meadow Lane
 Easy Wind Lane
 U.S. 401 Highway
 Atchison Drive
 Clifford Road
 Raynor Road
 Sambar Deer Lane
 Foley Drive
 Pinewinds Drive

Stop Street

Small Pine Drive
 Smith Drive
 Smith Drive
 Solheim Lane
 South Wade Avenue
 Southerby Drive
 Southerland Road
 Southerland Road
 Spaceway Court
 Spotted Buck Court
 Spring Drive
 Spring Drive
 Springview Trail
 Squirrel Oaks Lane
 St. Mary's Street
 St. Mary's Street
 St. Mary's Street
 St. Mary's Street
 St. Mellion Street
 Standfield Court
 Stapleton Drive
 (north)
 Stapleton Drive West
 Stapleton Drive
 State Road 2162
 Stationford Way
 (both directions)
 Stationford Way
 Stationford Way
 Steam Engine Way
 Steel Hopper Way
 Steelwood Court
 Stockett Court
 Stonecutter Court
 Stowe Place
 Sugarloaf Way
 Sugarloaf Way
 Sugaw Court
 Sunset Drive
 Sunset Drive
 Susan Drive
 Susan Drive
 Sycamore Drive
 Sycamore Drive
 Tafton Court
 Tallowwood Drive

Through Street

U.S. Hwy 401
 New Rand Road
 Rand Mill Road
 Mediate Drive
 Poole Drive
 NC 50
 Cason Street (west)
 Woodside Road
 Raynor Road
 Axis Deer Lane
 Coldwater Drive
 Timber Drive
 Foxwood Drive
 New Bethel Church
 Road
 Circle Drive
 Forest Drive
 Main Street
 State Road 1004
 Waterville Street
 Beckworth Court
 Foley Drive
 Foley Drive
 New Rand Road (SR
 2562)
 State Road 1004
 Cinder Cross Way
 Coalyard Drive
 Steel Hopper Way
 Bellfare Drive
 Coalyard Drive
 Foley Drive
 Poole Drive
 Buckhorn Road
 Timber Drive
 Mediate Drive
 Seastone Street
 Atchison Drive
 Hilltop Avenue
 St. Mary's Street
 Vesta Drive
 Winterlochen Road
 Lakeside Drive
 Park Avenue
 Tiffany Circle
 Bryan Road

Stop Street

Tallowwood Drive
 Tanfield Court
 Taunton Court
 Tawny Slope Court
 Tensaw Court
 Thistletree Court
 Thrower Lane
 Thrower Lane
 Tiara Court
 Tiffany Circle (east)
 Tiffany Circle (west)
 Timber Drive (SR
 2812)
 Timber Drive (SR
 2812)
 Timber Drive East
 Tinsteel Court
 Topleaf Court
 Tottingham Court
 Town View Trail
 Trade Street
 Trailing Bluff Way (2
 stop signs)
 Trailing Bluff Way (2
 stop signs)
 Trottington Court
 Tryon Pointe Drive
 Turner Street
 Turner Street
 Twin Court
 Twinberry Lane
 Tyser Place
 Umbrella Way
 Umbrella Way
 Umstead Lane
 Upton Court
 Val-Del Court
 Valley Road
 Valley Vista Court
 Valleycruise Circle
 Valrose Court
 Vandora Avenue
 Vandora Avenue

Through Street

Tallowwood Drive
 Dunhaven Drive
 Bournemouth Lane
 Ten-Ten Road
 Stapleton Drive
 Twinberry Lane
 Ackerman Road
 Anton Way
 Sycamore Drive
 SR 2713 (Vandora
 Springs Road)
 SR 2713 (Vandora
 Springs Road)
 Aversboro Road (SR
 2710)
 N.C. 50
 Health Park Drive
 Bricksteel Lane
 Oakwater Drive
 Bournemouth Lane
 Olde Manor Lane
 U.S. 401
 Hazy Hills Lane
 Majestic Peak Drive
 Burchcrest Drive
 Creech Road
 Bagwell Street
 Rand Mill Road
 Hidden Fox Path
 Coffeeberry Court
 Whithorn Drive
 Wood Orchid Lane
 (east end)
 Wood Orchid Lane
 (west end)
 State Road 2162
 Hutchins Drive
 Forest Manor Drive
 Woodland Road
 Arbor Green Drive
 New Bethel Church
 Road
 Mechanical Boulevard
 Aversboro Road
 Butler Drive

<i>Stop Street</i>	<i>Through Street</i>	<i>Stop Street</i>	<i>Through Street</i>
Vandora Avenue	Lakeside Drive	Willow Vista Street	SR 1004 (Garner Road)
Vandora Avenue	Vandora Springs Road	Wilmont Lane	Gosford Lane
Vandora Hills Place	Curtiss Drive	Wilmont Lane	Minglewood Drive
Vandora Hills Place	West Garner Road	Winding Brook Drive	Forest Landing Drive
Vandora Springs Road	Seventh Avenue	Winding Brook Drive	Forest Landing Drive
Vandora Springs Road	State Road 1004	Wingate Court	Longneedle Court
Vesta Drive (east)	Winterlochen Road	Wingate Court	Longneedle Court
Vesta Drive (west)	Winterlochen Road	Winterlochen Road	Cindy Drive
Vesta Drive	Greenbrier Road	Winterlochen Road	Forestdale Drive
Vesta Drive	Jessup Drive	Winterlochen Road	Greenbrier Road
Vesta Drive	Pine Woods Drive	Winterlochen Road	Roxanne Drive
Villa Drive	Springview Trail	Winterlochen Road	U.S. 401
Village Court	Aversboro Road	Winterlochen Road	Vesta Drive
Village Green Trail	Olde Manor Lane	Winterlochen Road	Tryon Pointe Drive
Virginia Avenue	Beichler Road	Wise Oak Lane	Raynor Road
Volunteer Street	Johnson Street	Wolf Willow Way	White Oak Garden Way
Wade Avenue	Aversboro Road	Wolf Willow Way	Magnolia Park Drive
Wade Avenue	Lakeside Drive	Wood Orchid Lane	Eagle Rare Lane
Wade Avenue	Park Avenue	Woodford Reserve Court	
Wagon Tie Lane	Steam Engine Way	Woodford Reserve Court	Old Forester Street
Ware Court	Atchison Street	Woods Creek Drive	Timber Drive
Water Deer Court	Pronghorn Deer Court	Woodside Road	Cranston Road
Water Lilly Way	Cane Creek Drive	Woodside Road	Meadowbrook Drive
Water Lilly Way	Misty Meadow Lane	Woodtrestle Way	Ackerman Road
Waterfield Drive (east)	Raynor Road	Woodtrestle Way	Cinder Cross Way
Waterville Street	Old Stage Road	Yeargan Road	SR 1004 (Garner Road)
Waterville Street	St. Mellion Street	York Court	Brucemont Drive
Watkins Valley Road	Hay River Street	Yulan Way	Lilliflora Lane
Wellons Creek Drive	Gulley Glen Drive	Yulan Way	Magnolia Park Drive
Westcroft Drive	Weston Road	Zaharis Cove	Challenge Road
Westmuir Place	McKnitt Place	Zinnia Lane	Aversboro Road
Westonridge Run	Villavista Trace	Zinnia Lane	Summers Walk Circle
Westonridge Run	Weston Road	Zulabelle Court	Oakton Ridge Place
Westwood Drive	Buckingham Road		
White Cap Lane	Creekbank Court		
White Deer Trail	Buffaloe Road		
White Horse Rapids Road	Clifford Road		
White Horse Rapids Road	Potomac River Street		
White Oak Garden Way	Meadowbark Bend		
Whitetail Deer Lane	Axis Deer Lane		
Whitetail Deer Lane	Clifford Road		
Whithorne Drive	Woods Creek Drive		
Wild Berry Lane	Sumers Walk Circle		
Willow Vista Road	Grassy Rio Lane		

(Ord. No. 1002, § 1(7)(A), 4-6-59; Ord. No. 1175, § 1, 4-1-68; Ord. No. 1226, § 1, 9-22-70; Ord. No. 1248, § 1, 7-5-71; Ord. No. 1254, § 1, 11-16-71; Ord. No. 1256, § 1, 12-6-71; Ord. No. 1315, § 1, 3-20-73; Ord. No. 1316, § 1, 4-2-73; Ord. No. 1333, § 1, 7-2-73; Ord. No. 1355, § 1, 1-7-74; Ord. No. 1361, § 1, 3-19-74; Ord. No. 1449, § 1, 7-6-76; Ord. No. 1469, §§ 1, 2, 2-22-77; Ord. No. 1491, § 1, 10-3-77; Ord. No. 1508, § 1, 2-6-78; Ord. No. 1519, § 1, 6-5-78; Ord. No. 1533, § 1, 11-6-78; Ord. No. 1571, § 1, 4-17-79; Ord. No. 1585, § 1,

5-22-79; Ord. No. 1621, § 1, 9-18-79; Ord. No. 1681, § 1, 7-7-80; Ord. No. 1735, § 1, 8-18-81; Ord. No. 1753, § 1, 10-20-81; Ord. No. 1814, § 1, 11-1-82; Ord. No. 1890, § 1, 11-22-83; Ord. No. 1916, § 1, 4-17-84; Ord. No. 1974, § 1, 2-4-85; Ord. No. 2021, § 1, 8-20-85; Ord. No. 2027, § 1, 10-7-85; Ord. No. 2034, § 1, 10-22-85; Ord. No. 2051, § 1, 1-6-86; Ord. No. 2096, § 1, 8-19-86; Ord. No. 2117, § 1, 2-16-86; Ord. No. 2121, § 1, 1-5-87; Ord. No. 2131, § 1, 3-3-87; Ord. No. 2138, § 1, 4-6-87; Ord. No. 2149, § 1, 5-19-87; Ord. No. 2170, § 1, 8-3-87; Ord. No. 2172, § 1, 8-18-87; Ord. No. 2211, § 1, 12-7-87; Ord. No. 2219, § 1, 12-22-87; Ord. No. 2266, § 1, 6-21-88; Ord. No. 2273, § 1, 7-19-88; Ord. No. 2311, § 1, 11-22-88; Ord. No. 2327, §§ 1, 2, 1-17-89; Ord. No. 2331, § 1, 2-21-89; Ord. No. 2410, § 1, 3-5-90; Ord. No. 2424, § 1, 6-4-90; Ord. No. 2431, § 1, 7-17-90; Ord. No. 2431, § 1, 7-17-90; Ord. No. 2439, § 1, 8-21-90; Ord. No. 2441, § 1, 9-4-90; Ord. No. 2447, § 1, 10-1-90; Ord. No. 2458, § 1, 12-3-90; Ord. No. 2459, § 1, 12-18-90; Ord. No. 2473, § 1, 5-6-91; Ord. No. 2515, § 1, 10-7-91; Ord. No. 2565, § 1, 2-1-93; Ord. No. 2580, § 1, 5-18-93; Ord. No. 2595, § 1, 9-7-93; Ord. No. 2609, § 1, 1-3-94; Ord. No. 2629, § 1, 5-17-94; Ord. No. 2664, § 1, 1-17-95; Ord. No. 2704, § 1, 10-17-95; Ord. No. 2705, § 1, 11-6-95; Ord. No. 2762, § 1, 11-19-96; Ord. No. 2778, § 1, 3-18-97; Ord. No. 2783, § 1, 4-22-97; Ord. No. 2794, § 1, 6-17-97; Ord. No. 2804, § 1, 7-22-97; Ord. No. 2808, § 1, 9-2-97; Ord. No. 2818, § 1, 11-3-97; Ord. No. 2822, § 1, 12-1-97; Ord. No. 2826, § 1, 1-5-98; Ord. No. 2829, § 1, 1-20-98; Ord. No. 2835, § 1, 3-2-98; Ord. No. 2856, § 1, 7-6-98; Ord. No. 2857, § 1, 7-21-98; Ord. No. 2861, § 1, 8-3-98; Ord. No. 2882, § 1, 12-22-98; Ord. No. 2905, § 1, 6-7-99; Ord. No. 2944, § 1, 2-1-00; Ord. No. 2957, § 1, 3-21-00; Ord. No. 2972, § 1, 6-5-00; Ord. No. 2999, § 1, 12-19-00; Ord. No. 3012, § 1, 3-20-01; Ord. No. 3035, § 1, 6-19-01; Ord. No. 3046, § 1, 9-4-01; Ord. No. 3054, § 1, 10-17-01; Ord. No. 3072, § 1, 2-19-02; Ord. No. 3174, § 1, 4-1-02; Ord. No. 3191, §§ 1, 2, 6-18-02; Ord. No. 3194, § 1, 7-1-02; Ord. No. 3203, § 1, 8-5-02; Ord. No. 3207, § 1, 9-3-02; Ord. No. 3216, § 1, 10-22-02; Ord. No. 3234, § 1, 3-17-03; Ord. No. 3256, § 1, 9-2-03; Ord. No. 3264, § 1, 10-6-03; Ord. No. 3283, § 1, 3-16-04; Ord. No. 3291, § 1, 6-7-04; Ord. No. 3298, § 1, 9-7-04; Ord. No. 3299, § 1,

9-21-04; Ord. No. 3301, § 1, 10-4-04; Ord. No. 3313, § 1, 1-18-05; Ord. No. 3315, § 1, 2-7-05; Ord. No. 3317, § 1, 2-22-05; Ord. No. 3338, § 1, 7-5-05; Ord. No. 3340, § 1, 7-19-05; Ord. No. 3346, § 1, 8-16-05; Ord. No. 3353, § 1, 9-20-05; Ord. No. 3360, § 1, 10-18-05; Ord. No. 3363, § 1, 11-7-05; Ord. No. 3369, § 1, 12-5-05; Ord. No. 3371, § 1, 12-20-05; Ord. No. 3378, § 1, 2-21-06; Ord. No. 3384, § 1, 3-6-06; Ord. No. 3385, § 1, 3-6-06; Ord. No. 3388, § 1, 3-21-06; Ord. No. 3389, § 1, 3-21-06; Ord. No. 3400, § 1, 5-16-06; Ord. No. 3405, § 1, 6-20-06; Ord. No. 3406, § 1, 6-20-06; Ord. No. 3467, § 1, 6-19-07; Ord. No. 3477, § 1, 8-6-07; Ord. No. 3482, § 1, 8-21-07; Ord. No. 3483, § 1, 9-4-07; Ord. No. 3485, § 1, 9-18-07; Ord. No. 3489, § 1, 11-5-07; Ord. No. 3509, § 1, 5-5-08; Ord. No. 3553, § 1, 6-1-09; Ord. No. 3612, § 1, 3-7-11; Ord. No. 3705, § 1, 9-3-13; Ord. No. (2019)3954, § 1, 3-19-19; Ord. No. (2019)3978, § 1, 6-18-19; Ord. No. (2019)4008, §§ 1, 2, 10-7-19; Ord. No. (2019)4010, §§ 1, 2, 10-24-19; Ord. No. (2019)4011, §§ 1, 2, 10-24-19; Ord. No. (2019)4012, §§ 1, 2, 10-24-19; Ord. No. (2019)4024, §§ 1, 2, 11-4-19; Ord. No. (2020)4044, § 1, 3-2-20; Ord. No. (2020)4045, § 1, 3-2-20; Ord. No. (2021)5000, § 1, 1-4-21; Ord. No. (2021)5001, § 1, 1-4-21; Ord. No. (2021)5002, § 1, 1-4-21; Ord. No. (2021)5003, § 1, 1-4-21; Ord. No. (2021)5008, § 1, 1-19-21; Ord. No. (2021)5076, § 1, 11-1-21; Ord. No. (2021)5077, § 1, 11-1-21; Ord. No. (2021)5078, § 1, 11-1-21; Ord. No. (2021)5079, § 1, 11-1-21; Ord. No. (2021)5080, § 1, 11-1-21; Ord. No. (2021)5081, § 1, 11-1-21; Ord. No. (2022)5134, § 1, 7-19-22; Ord. No. (2022)5158, § 1, 12-5-22; Ord. No. (2022)5159, § 1, 12-5-22; Ord. No. (2023)5217, § 1, 8-8-23; Ord. No. 5265, § 1, 5-7-24; Ord. No. 5266, § 1, 5-7-24; Ord. No. 5272, § 1, 6-18-24; Ord. No. 5273, § 1, 6-18-24)

State law references—Authority to designate thoroughways and erect stop signs at entrances thereto, G.S. § 20-158(a); unlawful to disobey stop signs, G.S. § 20-158(b).

Sec. 10-43. Ordinances designating through streets not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinances designating through streets, and all such ordinances are

hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Sec. 10-44. Intersections at which vehicles shall yield the right-of-way.

Vehicles approaching the following intersections on the yield streets shall yield the right-of-way to vehicles on the through streets:

<i>Yield Street</i>	<i>Through Street</i>
Aversboro Road	U.S. Highway 70 (exit)
Barefoot Street	Berkshire Drive
Carriage House Trail	Olde Manor Lane
Cason Street (east)	Meadowbrook Drive
Clifton Street	Berkshire Drive
Faye Drive	Virginia Avenue
Hilltop Avenue	Circle Drive
Longview Street	Curtis Drive
Lynnshire Court	Chillingham Road
Mediate Drive (east bound)	Mediate Drive Turnaround
Mediate Drive (west bound)	Mediate Drive Turnaround
N.C. Highway 50 (exit)	U.S. Highway 70
Norene Circle	Virginia Avenue
Rand Mill Road (N. of Main)	Main Street
St. Mary's Street (N. of Main)	Main Street
Southerland Road	Cason Street (west)
Vandora Springs Road (exit)	U.S. Highway 70

(Ord. No. 1002, § 1(17)(B), 4-6-59; Ord. No. 1175, § 1, 4-1-68; Ord. No. 1449, § 2, 7-6-76; Ord. No. 2052, § 1, 1-6-86; Ord. No. 2121, § 2, 1-5-87; Ord. No. 2149, § 2, 5-19-87; Ord. No. 2530, §§ 1, 2, 12-17-91; Ord. No. 2535, § 1, 1-6-92; Ord. No. 2580, § 1, 5-18-93; Ord. No. 2822, § 2, 12-1-97; Ord. No. 3204, § 1, 8-5-02)

State law references—Authority to erect yield right-of-way signs; unlawful to disobey yield right-of-way signs, G.S. § 20-158.1.

Sec. 10-45. Turns at intersecting streets; unlawful procedure.

(a) It shall be unlawful for the driver of a vehicle traveling upon a street which is intersected by another street to turn from such street for the

purpose of entering the intersecting street except at and through an intersection. Turns at the intersection shall be made in accordance with applicable traffic laws and ordinances. The purpose and intent of this section is to make it unlawful for the driver of any vehicle to turn from one street onto property which abuts on one or more of the intersecting streets in order to enter the intersecting streets.

(b) This section does not apply to a driver of a vehicle who turns from one street onto property abutting such street for the purpose of stopping at a business or other establishment located thereon, and who actually stops and transacts business there.

(c) Operation of a vehicle in the manner described in paragraph (a) of this section without stopping at a business or other establishment, shall be deemed prima facie evidence of the driver's intent to violate this section. (Ord. No. 2876, § 1, 11-17-98)

Sec. 10-46. Turning at channelized intersection.

Pursuant to the provisions of General Statutes, Section 20-169, upon a street at any intersection where traffic has been channelized by lines painted on the street, or direction of traffic is indicated by arrows painted on the street, drivers of vehicles shall observe the directions of every such painted sign, and in preparation for a turn before approaching such intersection shall, with proper regard for the safety of others using the street, move into the properly allocated lane at least fifty (50) feet before reaching the intersection, and shall make no turn to either the right or left unless within a lane in which such turn is permitted.

(Ord. No. 1002, § 1(28), 4-6-59)

State law reference—Local authority to regulate turning at intersections, G.S. § 20-153(c).

Sec. 10-47. Reserved.

Sec. 10-48. Speed restrictions.

(a) No person shall drive a vehicle upon any street at a speed greater than is reasonable and prudent under the conditions then existing.

(b) It shall be unlawful to operate any vehicle in excess of the following speeds:

- (1) Twenty-five (25) miles per hour on any street which is not a part of the state highway system except as hereinafter specified.
- (2) Twenty-five (25) miles per hour along Lakeside Drive between Vandora Springs Road and a point two hundred (200) feet northwestward from Park Avenue.
- (3) Thirty-five (35) miles per hour along Timber Drive in a westerly direction between Aversboro Road and the corporate limit line.
- (4) Twenty-five (25) miles per hour along Forest Drive between Aversboro Road and N.C. Highway 50.
- (5) Twenty-five (25) miles per hour along Yeargan Road (S.R. 2539) from Coldwater Drive (S.R. 2539), northward to U.S. 70.
- (6) Thirty-five (35) miles per hour along Mechanical Boulevard (2538) from U.S. 70 eastward to Yeargan Road (2539).
- (7) Forty-five (45) miles per hour along U.S. 70 from Mechanical Boulevard (S.R. 2538), the western corporate limit, eastward to a point 0.30 miles east of Yeargan Road (S.R. 2539).
- (8) Thirty-five (35) miles per hour along Poole Drive between Aversboro Road and Buckingham Road.
- (9) Forty-five (45) miles per hour along N.C. 50 from a point 0.37 miles south of S.R. 2562 (New Rand Road) northward for 1.42 miles.
- (10) Thirty-five (35) miles per hour along Junction Boulevard from Tryon Road southward to its termination.
- (11) Thirty-five (35) miles per hour along Garner's Station Boulevard between U.S. 401 and Junction Boulevard.
- (12) Forty-five (45) miles per hour along U.S. 401 beginning 0.21 miles north of Maxwell Drive (S.R. 2797) northward to Mechanical Boulevard (S.R. 2538).
- (13) Thirty-five (35) miles per hour along Aversboro Road (2710) from Timber Drive (2812) southward to Buffaloe Road (2711).
- (14) Forty-five (45) miles an hour along Timber Drive (S.R. 2812) from Aversboro Road (S.R. 2710) eastward to N.C. 50.
- (15) Forty-five (45) miles an hour along Timber Drive (S.R. 2812) from a point .38 mile south of Thompson Road (S.R. 2712) northward to U.S. 70.
- (16) Forty-five (45) miles an hour along Jones Sausage Road (S.R. 2547) from a point 0.20 miles north of Wilmington Road (S.R. 2585) northward to Auburn Church Road (S.R. 2548).
- (17) Thirty-five (35) miles per hour along the entire length of Waterfield Drive.
- (18) Forty-five (45) miles per hour along Jones Sausage Road (S.R. 5220) from S.R. 1004 southward to U.S. 70.

(c) It having been determined upon the basis of an engineering and traffic investigation that a higher maximum speed than thirty-five (35) miles per hour as set forth in General Statutes Section 20-141(b) is reasonable and safe under conditions found to exist upon a portion of Benson Road (N.C. Highway 50) within the corporate limits of the Town of Garner from a point 0.08 mile south of Atchison Street northward to a point 0.14 mile north of Atchison Street, which said portion of Benson Road is part of the State Highway system, it is determined and declared that fifty-five (55) miles per hour is a safe and reasonable speed limit along said portion of highway, and it shall be unlawful to operate any vehicle along Benson Road (N.C. Highway 50) from a point 0.08 mile south of Atchison Street northward to a point 0.14 mile north of Atchison Street at a speed in excess of fifty-five (55) miles per hour.

(d) The following areas adjacent to public schools are hereby declared school zones and it shall be unlawful to operate any motor vehicle at a speed in excess of the speed limit posted for that school zone for thirty (30) minutes before and after school begins and ends on any day such public schools are open:

- (1) Aversboro Road (SR 2710) from Timber Drive (SR 2812) northward to a point 0.10 mile north of Brucefont Drive; the school zone posted speed limit is twenty-five (25) miles per hour.
 - (2) Old Garner Road (SR 1004) between a point five hundred sixty (560) feet east of Jones Sausage Road (SR 2547) and a point one thousand five hundred forty (1,540) feet east of SR 2547; the school zone posted speed limit is thirty-five (35) miles per hour.
 - (3) Spring Drive (SR 2825) between a point three hundred (300) feet west of Buckhorn Road and a point one thousand seven hundred fifty (1,750) feet west of Coldwater Drive; the school zone posted speed limit is twenty-five (25) miles per hour.
 - (4) Vandora Springs Road (SR 2713) between Frederick Drive and a point one thousand ninety-five (1,095) feet south of Frederick Drive; the school zone posted speed limit is twenty-five (25) miles per hour.
- (Ord. No. 1433, § 1, 1-20-76; Ord. No. 1435, § 1, 2-17-76; Ord. No. 1531, § 1, 10-17-78; Ord. No. 1623, § 1, 10-1-79; Ord. No. 1641, § 1, 2-4-80; Ord. No. 1715, §§ 1, 2, 5-19-81; Ord. No. 1800, § 1, 9-7-82; Ord. No. 1952, § 1, 10-15-84; Ord. No. 2041, §§ 1, 2, 11-19-85; Ord. No. 2232, § 2, 2-16-88; Ord. No. 2372, § 1, 7-18-89; Ord. No. 2424, § 2, 6-4-90; Ord. No. 2643, § 1, 9-6-94; Ord. No. 2851, § 1, 6-16-98; Ord. No. 3017, § 1, 4-2-01; Ord. No. 3038, § 1, 7-2-01; Ord. No. 3041, §§ 1, 2, 7-17-01; Ord. No. 3449, § 1, 1-16-07; Ord. No. 3614, 3-22-11; Ord. No. 3647, § 1, 12-20-11; Ord. No. 3655, § 1, 2-21-12; Ord. No. 3691, § 1, 4-16-13)

Sec. 10-49. Speed of vehicles on rails.

It shall be unlawful to operate any locomotive, train or other vehicle traveling on rails in or through the town at a speed in excess of twenty-five (25) miles per hour.
(Ord. No. 1107, § 2, 10-1-62)

Sec. 10-50. Driving on left of yellow line; yellow line to be placed on Perdue Street.

(a) Except on properly designated one-way streets, the driver of a motor vehicle shall not drive on any street or road in the town to the left of the center lines on the crest of a grade, upon a curve where a yellow line appears in the right-hand lane, or at any other place where a yellow line appears in the righthand lane, or any other place where a sign or other device indicates that passing should not be attempted.

(b) Dual yellow lines shall be placed along the center of Perdue Street for a distance of seventy-five (75) feet east of its intersection with Garner Road.
(Ord. of 6-2-58)

Sec. 10-51. Driving on one-way streets.

Upon those streets designated as one-way streets, vehicular traffic shall move only in the indicated directions, when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited, except that street repair and street cleaning equipment may proceed in either direction on one-way streets while actually engaged in cleaning and repairing such streets.

(Ord. No. 1002, § 1(19), 4-6-59)

State law references—One-way traffic, generally, G.S. § 20-165.1; authority to require one-way traffic, G.S. § 20-169.

Sec. 10-52. Ordinances designating one-way streets not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinances designating one-way streets, and all such ordinances are

hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Sec. 10-53. Limitations on backing.

The driver of a vehicle shall not back it into any intersection or over a crosswalk, and shall not in any event, or at any place, otherwise back a vehicle unless the movement can be made in safety, and he shall have given ample warning to those who may be behind, by hand and horn or other signal.

(Ord. No. 1002, § 1(21), 4-6-59)

Sec. 10-54. Driving through processions; applicability of section.

(a) No driver of a vehicle shall drive between the vehicles comprising a funeral process or other authorized processions while they are in motion and when such vehicles are conspicuously designated, by burning headlights, by a police escort or by other noticeable identification.

(b) This provision shall not apply at intersections where traffic is controlled by traffic-control signals or a police officer.

(Ord. No. 1002, § 1(20), 4-6-59)

Sec. 10-55. Driving over freshly painted directional signs.

It shall be unlawful for any person to drive any vehicle over any freshly painted line, arrow crosswalk line or other traffic-direction sign painted on the streets of the town when signs, flags, marking cones or other devices are placed adjacent thereto giving notice of the existence thereof.

(Ord. No. 1002, § 1(15), 4-6-59)

Sec. 10-56. Moving vehicles from stopped position.

When leaving any portion of a street or parking space from a stop position, the driver of any vehicle shall first see that such movement can be made in safety and without endangering the

lives or property of others, and shall yield the right-of-way to persons or vehicles traveling along the street.

(Ord. of 2-6-56, § 1)

Sec. 10-57. Emerging from driveway, building.

The driver of a vehicle emerging from a driveway or building shall stop the vehicle immediately prior to driving onto the sidewalk area extending across any driveway, and shall yield the right-of-way to any pedestrian, as may be necessary to avoid collision, and, upon entering the roadway, shall yield the right-of-way to all vehicles approaching on the roadway.

(Ord. No. 1002, § 1(22), 4-6-59)

Sec. 10-58. Driving on sidewalks.

The driver of a vehicle shall not drive within any sidewalk area, except that portion of the sidewalk designated for a permanent or temporary driveway.

(Ord. No. 1002, § 1(23), 4-6-59)

Sec. 10-59. Obstructing intersections, crosswalks.

It shall be unlawful for a driver to enter an intersection or a marked crosswalk, unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

(Ord. No. 1002, § 1(18), 4-6-59)

Sec. 10-60. Unlawful to fail to move vehicle for convenience of passersby.

It shall be unlawful for the owner or driver of any vehicle to fail to move the same for the convenience of persons or other vehicles passing by, upon the order of any police officer.

(Ord. No. 1002, § 1(16)(A), 4-6-59)

Sec. 10-61. Driving on play streets.

Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or position thereof, except drivers of vehicles having business or whose residences are within such closed area, and then any such driver shall exercise the greatest care in driving upon any such street or portion thereof.

(Ord. No. 1002, § 1(13), 4-6-59)

Sec. 10-62. Driving through safety zone.

The driver of a vehicle shall not at any time drive through or over a safety zone marked, signed and designated pursuant to this article.

(Ord. No. 1002, § 1(7), 4-6-59)

State law reference—For similar provisions, see G.S. § 20-160.

Sec. 10-63. Driving in town parks.

It shall be unlawful for any person to drive or ride any motor vehicle, motor bike or self-propelled vehicle of any kind upon the grass, footways, recreation areas or any other place within the town parks except upon the streets, roads and parking areas provided for the use of such vehicles.

(Ord. No. 1975, § 1, 2-19-85)

Sec. 10-64. Operating vehicle on streets for purpose of advertising.

No person shall operate a vehicle on any street for the primary purpose of advertising.

(Ord. No. 1002, § 1(H)(2), 4-6-59)

Sec. 10-65. Sounding horns, warning devices in quiet zones.

Whenever authorized signs are erected indicating a quiet zone, no person operating a motor vehicle within any such zone shall sound the horn or other warning device of such vehicle, except in an emergency.

(Ord. No. 1002, § 1(8), 4-6-59)

Sec. 10-66. Use of city streets as through streets by commercial vehicles prohibited.

(a) It shall be unlawful for the driver of any vehicle used or licensed for commercial or industrial purposes with a rating in excess of one (1) ton to use the streets set forth hereinafter for parking or as through streets to obtain access:

- (1) Between US 401 and US 70: Jessup Drive, Winterlochen Road, Maxwell Drive and Pinewinds Drive;
- (2) Between Route 70 and Main Street: Purvis Street;
- (3) To Jones Sausage Road: Hay River Street and Watkins Valley Road.

(b) *Exceptions.*

- (1) This section shall not be construed as preventing a vehicle as described herein from a pickup or delivery, loading or unloading of passengers or freight on said streets.
- (2) This section shall not apply to school buses or other vehicles operating pursuant to an expressed permit issued by the police department.

(Ord. No. 2334, § 1, 3-6-89; Ord. No. (2021)5027, § 1, 4-20-21)

Sec. 10-67. No through traffic.

(a) Upon any street designated herein for no through traffic, those being streets where the council shall have found that through traffic is not needed by the residents and is not consistent with the health and safety of the citizens, through traffic shall be restricted or prohibited by erection of suitable barriers.

(b) The street or streets so designated as "no through traffic" streets as follows:

Lee Street.

Meadowbrook Drive, from its intersection with Weston Road eastward to its terminus.

(Ord. No. 2423, § 1, 5-22-90; Ord. No. 2443, § 1, 9-4-90)

Secs. 10-68—10-76. Reserved.

Sec. 10-77. Enforcement.

Unless otherwise prohibited by state law, violations of article III, Operation, shall be punishable as infractions pursuant to General Statutes, Section 14-4.
(Ord. No. (2022)5091, § 1, 1-3-22)

ARTICLE IV. STOPPING, STANDING AND PARKING*

Sec. 10-78. Police chief authorized to remove violating vehicles.

The chief of police is hereby authorized to remove or cause to be removed any vehicle from a street, sidewalk or alley which is illegally and improperly parked, violates a provision of this article and obstructs or impedes the use of the streets, sidewalks and alleys.
(Ord. No. 1002, § 1(I), 4-6-59)

Sec. 10-79. Civil enforcement of parking provisions.

(a) *Parking violations department established.* In order to promote and protect the public health, safety and welfare pursuant to the police powers of a municipality, and in order to regulate more efficiently the parking of vehicles upon the public streets of the town, there is hereby established a parking violations department with the person or persons in charge thereof to be designated or appointed by the town manager.

(b) *Procedure for notification of violator.* When any person charged with the duty of enforcement of the law regulating or prohibiting the parking of vehicles upon any street or public way or place within the town as provided by law shall find any vehicle parked upon such street, public way or place contrary to and in violation of any statute or town ordinance when such violation was not committed in his presence or under such circumstances as would indicate sufficient evidence to support a conviction of the person who violated such statute or ordinance, then the person or persons so charged with such enforcement may notify the owner of such vehicle of the

violation so found by conspicuously attaching to such vehicle a notice or ticket which shall require the owner or operator of such vehicle to pay to the town within five (5) days after the date of such notice a fee or penalty in the amount hereinafter prescribed.

(c) *Content of notice of violation.* Such parking violation notice or ticket shall, among other things:

- (1) Contain a description of the vehicle and the time and place of the violation;
- (2) State upon its face the nature of the parking violation and the amount of the fee or penalty due to the town;
- (3) Notify the owner or operator of such vehicle that a failure to pay the specified fee or penalty within the time prescribed will subject him to an action to recover the stated fee or penalty plus the costs of the action to be taxed by the court;
- (4) State that such owner or operator may, within the time prescribed, pay the fee or penalty at the town hall or mail the notice or ticket with payment to Parking Violations Department, P. O. Box 446, Garner, N.C. 27529.

(d) *Parking violations enumerated.* The parking violations referred to in this section may be described on the notice or ticket herein referred to as follows:

In violation of the law or ordinance this vehicle (describe vehicle) was parked at the stated date and time (violation checked):

- | | |
|--|----------|
| (1) In a no-parking zone (§ 10-84) | \$ 30.00 |
| (2) Too close to intersection (§ 10-83(3))..... | 30.00 |
| (3) On a sidewalk (§ 10-83(1)) . | 30.00 |
| (4) Too far from curb or street edge (§ 10-80) | 30.00 |
| (5) On roadway side of standing vehicle (double-parked)(§ 10-83(9))..... | 30.00 |
| (6) In loading zone (§ 10-97)... | 30.00 |

***State law reference**—General authority to regulate parking, G.S. § 160A-301.

(7) In emergency parking zone (§ 10-102)	50.00
(8) Obstructing traffic (§ 10-101)	50.00
(9) In fire lane (§ 10-84.1)	50.00
(10) In parking zone for handicapped (§ 10-85)	100.00
(11) In restricted time zone (§ 10-86)	30.00
(12) In residential parking permit zones (§ 1-103)	30.00
(13) Wrong side of street facing traffic (§ 10-80)	30.00
(14) Parking in front of fire hydrant (§ 10-83(10))	50.00
(15) Other violations	30.00

(e) *Penalty fee.* The fee or penalty to be paid to the town for any one violation of a parking law or ordinance as above set out is hereby fixed as noted. Offenses denominated a misdemeanor pursuant to North Carolina General Statutes § 14-4 shall be punishable as infractions; offenses not denominated as misdemeanors under the state's penal laws (offenses numbered (1)—(8) above) are not punishable as misdemeanors under the Town Code, but are subject to fines collected only as civil penalties in accordance with section 1-8. Any parking penalty or fee not paid within thirty (30) days from the date of issuance will double. Any such fees or penalties received by the town shall be applied toward the cost of enforcing and administering traffic and parking laws and ordinances within the town.

(f) *Towing of illegally parked vehicles.* Nothing herein is intended to provide that vehicles parked in violation of a law or ordinance may not be towed away as provided by law. Failure to pay parking fines as indicated above may be cause for vehicle immobilization or towing.

(g) *Authority of town police to assist, carry out enforcement.* In addition to such person or persons as may be designated or appointed by the town manager with the enforcement of the provisions of this section, police officers and non-sworn

police personnel (as designated by the chief of police) of the town are hereby authorized to carry out or to assist in such enforcement.

(h) *Appeals.* Appeal of parking tickets must be made within five (5) business days of receipt by contacting the designated appeals officer for the Town of Garner.

(Ord. No. 1002, § 1(30), 4-6-59; Ord. No. 1023, § 1(B)—(D), 3-7-60; Ord. No. 1534, § 1, 11-27-78; Ord. No. 2839, §§ 1—3, 3-17-98; Ord. No. 3468, §§ 1—3, 6-19-07; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 10-80. Manner of parking generally.

No person shall stand or park in a roadway other than parallel with the edge of the roadway, and with the curbside wheels of the vehicle within twelve (12) inches of the edge of the roadway, except as provided in the following subsections:

- (1) Upon those streets which have been marked or signed for angle parking, vehicles shall be parked at the angle to the curb indicated by such marks or signs.
- (2) It shall be unlawful for any driver operating a motor vehicle on a two-way street to drive the vehicle across the centerline of the street, whether the centerline is or is not marked by paint, and park the vehicle or leave it standing, parallel to the curb or street edge, facing on-coming traffic in any of the locations listed below:
Both sides of Fifth Avenue between Aversboro Road and Vandora Springs Road.
- (3) It shall be unlawful for any driver operating a motor vehicle on a two-way street to drive the vehicle across the centerline of the street, whether the centerline is or is not marked by paint, and park the vehicle or leave it standing, parallel to the curb or street edge, facing on-coming traffic in any of the locations listed below:
Both sides of Fifth Avenue between Aversboro Road and Vandora Springs Road.

(Ord. No. 1002, § 1(16)(G), 4-6-59; Ord. No. 1905, § 1, 2-6-84; Ord. No. 2839, § 4, 3-17-98)

Sec. 10-81. Reserved.

Editor's note—Ord. No. 2839, § 5, adopted March 17, 1998, deleted § 10-81, which set out when the use of parking lights is not required, and which derived from provisions presumably enacted during the original codification.

Sec. 10-82. General parking regulations for trucks and trailers.

All motor truck carriers operating as either common or contract carriers over regular or irregular routes, all passenger bus carriers, all owners of motor trucks or trailers of any kind including house trailers, whose trucks, truck-tractors, trailers, semi-trailers, house trailers or buses at any time are operated into, out of, through or within the corporate limits of the town, and the drivers and operators of any such vehicles shall use private property for parking and storing such vehicles within the corporate limits where permitted by the Land Use Ordinance, and they are hereby prohibited from using the public streets within the town, except for the purpose of travel and transporting, loading and unloading passengers and freight, and except for temporary parking in cases of emergency involving a mechanical breakdown necessitating repairs to any such vehicle; provided, that the provisions of this section shall not apply to trucks and vans three-fourths-ton capacity or less, and provided further, that it shall not apply to school buses parked in conformity with permits issued by the police department.

(Ord. No. 1002, § 1(16)(E), 4-6-59; Ord. No. 1515, § 1, 3-21-78; Ord. No. 1525, § 1, 8-7-78; Ord. No. 2231, § 2, 2-1-88; Ord. No. 2782 § 1, 4-22-97; Ord. No. 2839, § 6, 3-17-98; Ord. No. 2929 § 1, 8-21-99; Ord. No. 2929, § 1, 9-21-99)

Sec. 10-83. Parking in specific places prohibited.

No person shall park a vehicle, attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device in any of the following places:

- (1) On a sidewalk;
- (2) On or within twelve (12) feet of a crosswalk;

- (3) Within twenty (20) feet of an intersection;
- (4) Within twenty-five (25) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a street or roadway;
- (5) On either side of any street approaching a railroad underpass or overhead bridge within fifty (50) feet in any direction of the outer edge of such underpass or overhead bridge;
- (6) On either side of any street approaching a grade crossing within fifty (50) feet of the closest rail; provided, that where existing permanent structures are located along the street and closer than fifty (50) feet, parking may be permitted in front of such structures, unless otherwise prohibited, if such parking does not interfere with the view in either direction of an approaching locomotive or train;
- (7) Alongside or opposite any street excavation or obstruction when such stopping or standing or parking would obstruct traffic;
- (8) Upon any bridge or other elevated structure or within any underpass structure;
- (9) On the roadway side of any vehicle stopped, standing or parked at the edge or curb of a street;
- (10) No person shall park a vehicle, or permit it to stand, whether attended or unattended, within fifteen (15) feet in either direction of a fire hydrant or the entrance to a fire station, except in compliance with the directions of a police officer or traffic control device, or when such vehicle is operated by a law enforcement officer, EMS or other rescue or emergency personnel in the line of duty, in which event such vehicle may be permitted to stand temporarily within less than fifteen (15)

feet of a fire hydrant so long as fire department access to the hydrant is not impeded.

(Ord. No. 1002, § 1(16)(B)(2), 4-6-59; Ord. No. 2839, § 7, 3-17-98; Ord. No. (2019)3997, 9-17-19)

Sec. 10-84. No parking zones.

No person shall park a vehicle or permit it to stand, whether attended or unattended, within the areas designated below as "No Parking" zones when signs have been erected or painted giving notice of the location of such "No Parking" zones. In the designation of such "No Parking" zones, unless otherwise stated, the distances of such "No Parking" zones shall be determined by measurement along the curbline or, if none, the right-of-way line of a named street from the nearest intersection of the prolongation of the curbline or, if none, the right-of-way, of the named intersecting street.

The following locations are designated as "No Parking" zones:

Amber Acorn Avenue, at its north side, beginning at Ten Ten Road and extending eastward 400 feet to Misty Pike Drive.

Arbor Greene Drive, at its west side, beginning at a point 50 feet west of the homeowner's association pool driveway extending 125 feet eastward on Arbor Greene Drive.

Avery Street, at its east side, beginning at Garner Road and extending northward 200 feet.

Avery Street, at its west side, between Garner Road and extending northward 690 feet.

Avery Street, at its west side, beginning at a point 690 feet from Garner Road extending northward to Powell Drive between the hours of 7:00 a.m. and 6:00 p.m.

Buck Branch Drive, at its west side, beginning at a point 243 feet north from Springview Trail and extending southward 60 feet.

Buckingham Road, at its south side, from Coachman Drive westward 30 feet.

Clearwater Drive (SR 2826), at its east side, from Yeargan Road to Spring Drive (SR 2825).

Clearwater Drive (SR 2826), at its west side, from Yeargan Road to Spring Drive (SR 2825).

Curtis Drive, at its south side, beginning at a point 634 feet from Powell Drive, eastward 193 feet.

Fifth Avenue, at its north side, beginning at a point 516 feet west from Aversboro Road, eastward 36 feet.

Fifth Avenue, on its north side, beginning at its intersection with the Aversboro Road right-of-way, extending 519 feet west.

Fifth Avenue, on its north side, beginning at a point 580 feet west of its intersection with the Aversboro Road right-of-way, extending westward to a point 681 feet from its intersection with Aversboro Road.

Fifth Avenue, on its south side, beginning at its intersection with the Aversboro Road right-of-way, extending westward to Vandora Springs Road.

Fifth Avenue, at its south side, from Vandora Springs Road east a distance of 180 feet.

Forest Drive, on its north side, beginning at its intersection with the Aversboro Road right-of-way, extending 137 feet east.

Forest Drive, on its north side, beginning at its intersection with the N.C. Highway 50 right-of-way, extending 75 feet west.

Forest Drive, on its south side, beginning at its intersection with the Aversboro Road right-of-way, extending 190 feet east.

Forest Drive, on its south side, beginning at its intersection with the N.C. Highway 50 right-of-way, extending 175 feet west.

Foxbury Drive, along the north and south sides of Foxbury Drive from NC 50 right-of-way east a distance of 600 feet.

Garner Road (SR 1004), on its west side, beginning at its intersection with Meadowbrook Drive, extending 285 feet south.

Heather Springs Drive, from Timber Drive to MacHost Drive.

Lakeside Drive, at its north side, beginning at the Highway 50 right-of-way, extending westward 160 feet along the Lakeside Drive right-of-way.

Main Street, at its north side, beginning at the St. Mary's Street right-of-way, extending eastward along Main Street to a point 130 feet westward of the extended centerline of Purvis Street.

Main Street, at its south side, beginning at a point 55 feet west of the intersection of the center lines of Main Street and Griffin Street, extending eastward along Main Street approximately 50 feet to the corner of Griffin Street.

Main Street, at its south side, west from Rand Mill Road 36 feet.

Main Street, at its south side, east from Purvis Street 20 feet.

McCormick Street, between U.S. 70 West and Mechanical Boulevard and Drexmere Street between U.S. 70 West and McCormick Street.

N.C. Highway 50, on its west side, beginning at its intersection with the Circle Drive right-of-way, extending 1,450 feet south to its intersection with Forest Drive.

Northview Street, on its north side, beginning at a point 1,695 feet east of its intersection with Cason Street extending eastward to a point 1,825 feet from its intersection with Cason Street.

Parker Street, at its north side between Montague Street and Pearl Street.

Parker Street, at its south side between Montague Street and Pearl Street.

Pearl Street, at its east side from Main Street to its termination.

Pearl Street, at its west side from Main Street to its termination.

Poole Drive, at its north side, beginning at a point 195 feet east from Buckingham Road and extending eastward 200 feet.

Poole Drive, at its north side, beginning at a point 482 feet east from Buckingham Road and extending eastward 200 feet.

Poole Drive, at its north side, from Buckingham Road eastward to Aversboro Road.

Powell Drive, at its north side, beginning at a point 208 feet east from Broughton Street, eastward 480 feet from 7:30 a.m. to 3:30 p.m., Monday through Friday.

Powell Drive, at its south side, beginning at a point 208 feet east from Broughton Street, eastward 480 feet from 7:30 a.m. to 3:30 p.m., Monday through Friday.

Rand Mill Road, at its east and west sides; south from Main Street a distance of 87 feet.

Rand Mill Road, at its west side, beginning at Main Street and extending southward 490 feet.

Spring Drive (SR 2825), at its east side, from Clearwater Drive (SR 2826) southward 2,588 feet.

Spring Drive (SR 2825), at its west side, from Clearwater Drive (SR 2826) southward 2,588 feet.

Timber Drive, on each side, between US 70 and New Rand Road (SR 2567).

Umstead Lane, on its north and south sides, from Hilltop Avenue to Benson Road (S.R. 2561).

Un-named alley, at its north and south sides from Rand Mill Road extending eastward 100 feet.

Vandora Springs Road, at its east side, beginning at a point 230 feet north from Park Avenue extending northward 975 feet between the hours of 8:00 a.m. and 4:00 p.m. school days.

Vandora Springs Road, at its east side, beginning at its intersection with the Fredrick Road right-of-way, extending 100 feet north.

Vandora Springs Road, at its east side, beginning at its intersection with the Fredrick Road right-of-way, extending 125 feet south.

Vandora Springs Road, at its east side, beginning at its intersection with the Park Avenue right-of-way, extending 150 feet north.

Vandora Springs Road, at its east side, beginning at its intersection with the Park Avenue right-of-way, extending 300 feet south.

Vandora Springs Road, at its east side, beginning at its intersection with the Fowler Drive right-of-way, extending 225 feet north.

Vandora Springs Road, at its east side, beginning at a point 230 feet north of Park Avenue extending northward 975 feet.

Vandora Springs Road (SR 2713), on its west side, from Grand Pointe Drive to N. Gleneagle Drive.

Yeargan Road (SR 2539), at its north side, beginning at the west right-of-way of Mechanical Boulevard, extending 500 feet westward along the Yeargan Road right-of-way.

Provided that the prohibition of parking in the designated no parking zones on Main Street and Garner Road shall not apply during a downtown community event for which a temporary street or alley closing permit has been issued by the police chief or a downtown community event approved by the town council by resolution, and shall not apply as to such other streets as are specified by the town council by such a resolution, so long as the parking does not block or impede the safe passage of regular traffic and/or emergency vehicles.

(Ord. No. 7-7-58, § I; Ord. No. 1388, § 1, 12-17-74; Ord. No. 1403, § 1, 6-17-75; Ord. No. 1439, 4-20-76; Ord. No. 1495, § 2, 11-22-77; Ord. No. 1535, § 1, 11-27-78; Ord. No. 1557, §§ 1, 2, 2-5-79; Ord. No. 1584, § 1, 5-22-79; Ord. No. 1631, § 1, 11-20-79; Ord. No. 1640, § 1, 1-22-80; Ord. No. 1648, § 1, 3-3-80; Ord. No. 1653, §§ 1, 2, 4-8-80; Ord. No. 1772, § 1, 3-16-82; Ord. No.

1791, § 1, 7-20-82; Ord. No. 1808, §§ 1, 2, 9-21-82; Ord. No. 1842, § 1, 4-19-83; Ord. No. 1951, § 1, 10-16-84; Ord. No. 1953, § 1, 10-16-84; Ord. No. 1961, § 1, 11-20-84; Ord. No. 2050, § 1, 12-17-85; Ord. No. 2154, § 1, 6-1-87; Ord. No. 2212, § 1, 12-7-87; Ord. No. 2232, § 1, 2-16-88; Ord. No. 2262, § 1, 6-6-88; Ord. No. 2285, § 1, 8-16-88; Ord. No. 2319, § 1, 12-20-88; Ord. No. 2345, §§ 1, 2, 4-18-89; Ord. No. 2369, § 1, 6-20-89; Ord. No. 2386, § 1, 9-19-89; Ord. No. 2483, § 1, 6-18-91; Ord. No. 2537, § 1, 2-3-92; Ord. No. 2550, § 1, 7-21-92; Ord. No. 2630, §§ 1, 2, 5-17-94; Ord. No. 2684, §§ 1, 2, 6-5-95; Ord. No. 2699, §§ 1, 2, 9-5-95; Ord. No. 2756, § 1, 11-4-96; Ord. No. 2887, § 1, 1-19-99; Ord. No. 2980, § 1, 7-5-00; Ord. No. 3026, § 1, 6-4-01; Ord. No. 3195, § 1, 7-1-02; Ord. No. 3356, § 1, 9-20-05; Ord. No. 3435, § 1, 11-21-06; Ord. No. 3700, § 1, 7-16-13; Ord. No. 3747, § 1, 10-6-14; Ord. No. 3776, § 1, 7-7-15; Ord. No. (2021)5062, § 1, 9-21-21; Ord. No. 5277, § 1, 6-18-24)

Sec. 10-84.1. No parking and fire lanes.

(a) No person shall park a vehicle or permit it to stand, whether attended or unattended, upon any public vehicular, street, highway, or roadway in any area designated as a fire lane. This prohibition includes designated fire lanes in shopping center or mall parking lots and all other public vehicular areas; provided, however, persons actively loading or unloading supplies or merchandise may park temporarily in a fire lane located in a shopping center or mall parking lot as long as the vehicle is not left unattended.

(b) The following is a recommended method for marking fire lanes. However, nothing in this ordinance precludes variances to this recommended procedure. Fire lanes may be marked as follows: (1) signs should be a minimum of 12" × 18" with red letters and border on a white background; (2) signs should be placed at each end of the fire lane, at every exterior angle in curb and gutter with a maximum of one hundred (100) feet between signs; (3) fire lanes should be marked with a continuous single six-inch-wide yellow stripe from beginning to end; (4) lanes should be four (4) to five (5) feet wide from curb to yellow line; and (5) the words "NO PARKING—FIRE LANE" with the words "TOWING

ENFORCED" directly beside or below it, shall be stenciled, parallel to the face of the curb, no farther than one hundred (100) feet apart, using yellow paint with a minimum twelve-inch-high letters, or (6) for each wall mounted or column-mounted sign which gives notice of a fire lane, there shall be additional language, whether added to the existing sign or on a supplemental sign placed under or beside the existing sign, in the same general size and type of lettering, with the words "TOWING ENFORCED."

(c) The following locations are designated as "No Parking Fire Lane" zones when appropriately marked:

Forest Hills Shopping Center, Kmart Super Center, Gateway Plaza, North Station Shopping Center, South Station Shopping Center, Timber Crossings Shopping Center, Shops at Timber Landing, and Garner Towne Square Shopping Center.

White Oak Crossing Shopping Center. Beginning at the northwest corner of the northeastern building and proceeding along the fronts of all buildings in Phase One of the shopping center shown in Book of Maps 2002 Page 1833 of the Wake County registry, excepting the building whose northwestern corner is located approximately nine hundred eighty (980) feet from the beginning point.

Shoppes at Garner, Wal-Mart #1372, 4500 Fayetteville Road. A fire zone ten (10) feet wide to the sidewalk beginning at the southwest corner of the Wal-Mart retail building adjacent to Purser Drive six hundred ten (610) feet northward, then seven hundred thirty (730) feet eastward to a point.

Bellarose Lake Way at its north side, beginning at NC 50 (Benson Road) and extending eastward two hundred thirty-five (235) feet to the terminus of public maintenance.

(Ord. No. 1895, § 1, 11-22-83; Ord. No. 2359, § 1, 6-5-89; Ord. No. 2461, § 1, 1-7-91; Ord. No. 2659, § 2, 1-3-95; Ord. No. 2735, § 1, 5-6-96; Ord. No. 2736, § 1, 6-3-96; Ord. No. 2744, § 1, 7-16-96; Ord. No. 2839, § 8, 3-17-98; Ord. No. 2858, § 1, 7-21-98; Ord. No. 3036, § 1, 7-2-01; Ord. No.

3239, § 1, 4-7-03; Ord. No. 3399, § 1, 5-16-06; Ord. No. 3541, § 1, 1-5-09; Ord. No. 3669, § 1, 9-4-12; Ord. No. 5281, § 1, 7-16-24)

Sec. 10-84.2. Owner, lessee to install, maintain no parking areas and fire lanes in private parking areas and driveways.

It is and shall remain the duty of the owner or lessee of the private parking lot or driveway area to install and maintain and replace any signs established pursuant to Section 10-84.1 of this Code and to replace said signs and maintain and repaint said markings when such replacement or repainting shall become necessary, in order adequately to give notice to the public of such restricted parking designation.

(Ord. No. 2164, § 1, 6-16-87)

Sec. 10-85. Parking zones for the handicapped.

(a) Parking spaces for any vehicle driven by or transporting a person who is handicapped as defined by General Statutes, Section 20-37.5, or transporting a person who is visually impaired as defined by General Statutes, Section 111-11, shall be designated as provided by General Statutes, Section 20-37.6(d) in public places within the town located as follows:

- (1) The southern side of Lakeside Drive starting at a point one hundred (100) feet west of the right-of-way of N.C. Highway 50 and extending forty-six (46) feet westward along the curb of Lakeside Drive.
- (2) Three (3) parking spaces, each to be situated as a parking space nearest a curb cut for the handicapped in the curbed area which separates marked parking sections in front of the town hall, the library and the police station.
- (3) A parking space situated as the parking space nearest the front door of the Wade Vester Public Works Building.

- (4) A parking space at the north side of Main Street situated as the parking space directly opposite the intersection of Purvis Street and West Main Street.
- (5) A parking space at the north side of Main Street situated as the parking space east of the intersection with Rand Mill Road and directly opposite the police substation at 102 East Main Street.

(b) It shall be the duty of the director of public works to designate parking spaces located as set out in paragraph (a) by marking spaces and by use of sign R7-8, *Manual on Uniform Traffic Control Devices*, or by such means of designation as may be provided by General Statutes, Section 20-37.6(d) as amended.

(c) Parking spaces for any vehicle driven by or transporting a person who is handicapped, as defined by General Statutes, Section 20-37.5 or transporting a person who is visually impaired, as defined by General Statutes, Section 111-11, shall be designated as provided by General Statutes, Section 20-37.6(d) in parking areas or driveways of hospitals, shopping areas, apartment complexes, condominium complexes, commercial office complexes, or other privately owned public vehicular areas in the town by such means of designation as may be provided by General Statutes, Section 20-37.6(d), as amended.

(d) The installation and maintenance of signs or markings designated for any vehicle driven by or transporting a person who is handicapped or visually impaired as set forth above is and shall remain the duty of the owner or lessee of the privately owned parking lot or driveway or other privately owned public vehicular area, and it shall be and remain the duty of said owner or lessee to maintain and replace such signs and maintain and repaint said markings when such replacement or repainting shall become necessary, adequately to give notice to the public of such restricted parking designation.
(Ord. No. 1790, 7-6-82; Ord. No. 2164, § 2, 6-16-87; Ord. No. 2756, §§ 2, 3, 11-4-96; Ord. No. 2839, § 9, 3-17-98)

Sec. 10-86. Restricted parking.

(a) Parking shall be restricted to no more than fifteen (15) minutes in the following designated areas:

[Reserved.]

(b) Parking shall be restricted to no more than one hour per space in the following designated areas:

Main Street on its south side, between Rand Mill Road and Purvis Street between the hours of 8:00 a.m. and 5:00 p.m., Monday through Saturday.

(Ord. No. 2694, § 1, 7-18-95; Ord. No. 2756, § 4, 11-4-96; Ord. No. 3358, § 1, 10-3-05)

Secs. 10-87—10-96. Reserved.

Sec. 10-97. Parking in loading zones.

(a) When signs are erected or painted on the streets giving notice thereof, no person shall at any time between the hours of 8:00 a.m. and 6:00 p.m., Monday through Saturday, park any vehicle within the areas designated as loading zones, except for purposes of loading and unloading such vehicle. In no case shall the stop for loading or unloading of materials exceed sixty (60) minutes or the loading or unloading of passengers exceed ten (10) minutes.

(b) Loading zones shall be established at the following locations:

- (1) *Main Street*, south side
beginning at a point 36 feet
west from Rand Mill Road,
westward 42 feet

(Ord. No. 1398, § 1, 3-17-75; Ord. No. 2756, § 5, 11-4-96)

Sec. 10-98. Reserved.

Sec. 10-99. Standing, parking of vehicle in right-of-way or roadway or street to display it for sale or perform maintenance on it.

No person shall stand or park a vehicle upon any right-of-way or roadway or street for the principal purpose of:

- (1) Displaying it for sale;

- (2) Greasing or repairing or performing work of any kind on such vehicle except repairs necessitated by emergency, or parking it in such locations before or after or otherwise incidental to performing work or repairs.

(Ord. No. 1002, § 1(H), 4-6-59; Ord. No. 2839, § 10, 3-17-98 ; Ord. No. 2984, § 1, 7-18-00)

Sec. 10-100. Reserved.

Editor's note—Ord. No. 1403, § 2, adopted June 17, 1975, amended this Code by repealing, § 10-100, relating to Lakeside Drive median paring, in its entirety. Former § 10-100 was derived from Ord. No. 1189, § 1, 12-17-68.

Sec. 10-101. Unlawful to permit vehicle to obstruct traffic.

It shall be unlawful for the owner or driver of any vehicle to allow such vehicle to stand on the street in such manner and at such places as to cause an obstruction to traffic.

(Ord. No. 1002, § 1(16)(A), (B)(1), 4-6-59)

Sec. 10-102. Parking in emergency parking zones.

No person shall park a vehicle or permit it to stand, whether attended or unattended, in a zone designated by appropriate signs indicating an emergency parking zone after such zone has been so designated by the governing authorities of the town, and appropriate signs have been posted, unless the person shall be a member of the fire department, or a person aiding the fire department in an emergency, or a member of the various law enforcement agencies during the time of an emergency.

(Ord. of 7-7-58, § II)

Sec. 10-103. Residential parking permit zones.

(a) No person shall park a vehicle, attended or unattended, in the areas designated below as "residential parking permit zones" when signs have been erected or painted giving notice of the location of such zones, unless the vehicle so parking displays a parking permit decal as set forth below. "Residential parking permit zone" shall mean an area designated herein for restricted residential parking. "Residential parking permit

decal" shall mean a special permit issued hereunder by the town and authorizing the vehicle bearing such permit to be parked in a controlled parking residential zone.

(b) When signs are duly erected or painted on streets in the controlled parking residential areas listed in this section, no person shall park a vehicle in Zone A during school hours(defined herein as being one hour before to one hour after school from Monday through Friday on days when Garner senior high school is in session) or in Zone B at any time, unless such vehicle has a properly displayed residential parking permit decal; provided, that this section does not apply to vehicles being used in delivery, repair, or loading or unloading operations, or to locations for which parking is otherwise regulated as specified in sections 10-84, 10-84.1, 10-85, and 10-97.

(c) The residential parking permit zones are as follows:

Zone A

Consisting of the following streets:

Brookstone Court.

Buck Branch Drive.

Forest Ridge Road.

Foxwood Drive (Buck Branch to Springview).

Glenview Court.

Main Street (specific spaces posted with residential parking permit designation, between Purvis Street and Rand Mill Road).

Royal Oak Drive.

Springview Trail.

Zone B

Frederick Road from Vandora Springs Road to Lakeside Drive.

(Ord. No. 2412, § 1, 3-5-90; Ord. No. 2971, §§ 1, 2, 5-16-00; Ord. No. 3339, § 1, 7-19-05)

Sec. 10-104. Issuance and use of residential parking permits.

(a) A resident of a controlled parking residential area is eligible to receive one (1) residential parking permit decal for each vehicle which is principally operated by the resident. The revenue collector shall verify the residence address of persons obtaining such decals. As proof of residency, the revenue collector may require utility bills, notarized affidavits of the landlord, auto registration cards and other documentation deemed necessary naming the permittee and showing an address within the controlled parking zone. A residential parking permit shall not guarantee or reserve to the holder a parking space within a designated controlled parking residential area.

(b) The residential parking permit decal shall be attached to driver's side rear window or hung from the rearview mirror of the vehicle for which it is issued.

(c) No person shall display a residential parking permit decal on a vehicle other than the vehicle for which application was made and any such use or display, except as authorized herein, shall constitute a violation of this Code by the permittee and by the person who so used or displayed the residential parking permit decal.

(d) The town is authorized to revoke the residential parking permit of any permittee found to be in violation of this section, and, upon written notification thereof, the permittee shall surrender such permit to the town.

(e) A residential parking permit decal displayed on a vehicle issued to a person who ceases to reside in the zone, or who obtained a decal through misrepresentation or error, or one used for purposes of storage of otherwise prohibited vehicles, is void.

(f) It shall constitute a violation of this Code for any person to use a decal on a vehicle which does not qualify under the Section 10-103 and/or this section, to falsely represent himself as eligible for a residential parking permit decal, or to

furnish any false information in an application to the town in order to obtain a residential parking permit decal.

(Ord. No. 2412, § 2, 3-5-90; Ord. No. 2971, § 3, 5-16-00)

Secs. 10-105—10-112. Reserved.

Sec. 10-113. Enforcement.

Unless otherwise prohibited by state law, violations of article IV, Stopping, Standing and Parking, shall be punishable as infractions pursuant to General Statutes, Section 14-4.

(Ord. No. (2022)5091, § 1, 1-3-22)

ARTICLE V. JUNKED AND ABANDONED MOTOR VEHICLES*

Sec. 10-114. Definitions.

For the purposes of this article, certain words and terms are defined as herein indicated:

Abandoned vehicle: As authorized and defined in General Statutes, Section 160A-303, an abandoned vehicle is one that:

- (1) Is left on a public street or highway in violation of a law or ordinance prohibiting parking; or
- (2) Is left on a public street or highway for longer than seven (7) days; or
- (3) Is left on property owned or operated by the town for longer than twenty-four (24) hours; or
- (4) Is left on private property without the consent of the owner, occupant or lessee or thereof for longer than two (2) hours.

***Editor's note**—Ord. No. 2452, adopted Oct. 16, 1990, amended Ch. 10 by repealing §§ 10-114—10-119, which were the substantive provisions of Art. V, pertaining to junked and abandoned motor vehicles, and derived from Ord. No. 1181, §§ 1—8, adopted May 21, 1968; Ord. No. 1966, § 1, adopted Dec. 18, 1984; and Ord. No. 2362, § 6, adopted June 5, 1989. In addition, Ord. No. 2452 enacted new provisions designated and set out herein as §§ 10-114—10-132.

State law reference—Removal and disposal of junked and abandoned motor vehicles, G.S. § 160A-303.

Authorizing official: The supervisory employee of the police department or the appropriate official of the community development department, respectively, designated to authorize the removal of vehicles under the provisions of this article.

Junked motor vehicle: As authorized and defined in General Statutes, Section 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; or
- (2) Cannot be self-propelled or moved in the manner in which it was intended to move; or
- (3) Is more than five (5) years old and appears to be worth less than one hundred dollars (\$100.00).

Motor vehicle or vehicle: All machines designed or intended to travel over land by self-propulsion or while attached to a self-propelled vehicle.

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

- (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests; or
- (2) A point of heavy growth or grass, weeds or other noxious vegetation over eight (8) inches in height; or
- (3) A point of collection of pools or ponds of water; or
- (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor; or
- (5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, etc.; or
- (6) So situated or located that there is a danger of it falling or turning over; or

- (7) One which is a collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind; or
 - (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or
 - (9) Used by children in play activities; or
 - (10) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the town council.
- (Ord. No. 2452, § 1, 10-16-90)

Sec. 10-115. Administration.

The police department and the community development department of the town shall be responsible for the administration and enforcement of this article. The police department shall be responsible for administering the removal and disposition of vehicles determined to be "abandoned" on the public streets and highways. The community development department shall be responsible for administering the removal and disposition of "abandoned," "nuisance," or "junked motor vehicles" located on private property. 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 article and applicable state laws. Nothing in this article shall be construed to limit the legal authority or powers of officers of the town police department and fire department in enforcing other laws or in otherwise carrying out their duties.

(Ord. No. 2452, § 1, 10-16-90)

Sec. 10-116. Abandoned vehicle unlawful; removal authorized.

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

(b) Upon investigation, proper authorizing officials of the town may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

(Ord. No. 2452, § 1, 10-16-90)

Sec. 10-117. 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 appropriate official of the community development department may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle, as defined herein, and order the vehicle removed. (Ord. No. 2452, § 1, 10-16-90)

Sec. 10-118. Junked motor vehicle regulated; removal authorized.

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

(b) *Location and concealment of single vehicle.* It shall be unlawful to have more than one (1) junked motor vehicle, as defined herein, on the premises of public or private property. A single permitted junked motor vehicle must strictly comply with the location and concealment requirements of this section.

(c) *Compliance with concealment requirements.* It shall be unlawful for any 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 fail to comply with the locational requirements or the concealment requirements of this section.

(d) *Removal.* Subject to the provisions of subsection (e), upon investigation, the appropriate official of the community development department may order the removal of a junked motor

vehicle as defined in this article after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such a finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following among other relevant factors may be considered:

- (1) Protection of property values;
- (2) Indirect protection of public health and safety;
- (3) Preservation of the character and integrity of the community; and
- (4) Promotion of the comfort, happiness and emotional stability of area residents.

(e) *Permitted concealment or enclosure of junked motor vehicle:*

- (1) One (1) junked motor vehicle, in its entirety, can be located in the rear yard as defined by the town's Unified Development Ordinance for limited periods as set forth in this section, if the junked motor vehicle is entirely concealed from public view from a public street and from abutting premises by an acceptable covering or if the vehicle is in the later stages of restoration as set forth below. Such vehicle may be maintained for a period of up to one (1) year from the date it is identified and tagged as a junked motor vehicle following adoption of this section, provided that the period may be extended by periods of up to one (1) year based upon a finding that the vehicle is in an active process of restoration in which identifiable work has been undertaken during the past year and is projected to be undertaken during the oncoming year.
- (2) The town manager shall designate town officials with the authority to act pursuant to this section. The appropriate town official has the authority to determine whether any junked motor vehicle is adequately concealed as required by this provision. The covering must remain in

good repair and must not be allowed to deteriorate. The covering cannot be transparent and must otherwise be compatible with the objectives stated in the preamble of the ordinance from which this article derives. A fitted vehicle cover manufactured and sold for the purpose of covering a vehicle is preferred.

- (3) 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 means either a lawful, nonconforming use or a garage or building structure erected pursuant to the lawful issuance of a building permit and which has been constructed in accordance with all zoning and building code requirements.
- (4) A vehicle allowed by subsection (1) above which is in the later stages of restoration, having wheels, tires, glass, roof or convertible top, the body work has been completed and the vehicle has been repainted, but the restoration is still awaiting some necessary part to render the vehicle fully operable, may be maintained in a carport instead of the back rear yard under a cover, provided, however, that this exception does not allow the storage or accumulation of automotive parts or repair machinery and equipment to be visible from the public street or abutting yards; notwithstanding the foregoing, substantial repair of vehicles, including use of hoists or other equipment larger than hand tools is not permitted in the front yard.

(Ord. No. 2452, § 1, 10-16-90; Ord. No. 3402, §§ 1—3, 5-16-06)

Sec. 10-119. Right to inspect vehicles on private property.

Duly authorized officials of the police department and community development department shall have the right, upon presentation of proper credentials and identification, to enter any premises within the jurisdiction of this article

during daylight hours to determine if any vehicle is a health or safety hazard or is distracting from the aesthetics of the area.

(Ord. No. 2452, § 1, 10-16-90)

Sec. 10-120. Removal of abandoned, nuisance or junked motor vehicles; pretowing notice requirements, pretowing appeal.

(a) Except as set forth in Section 10-121 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. Notice shall be given by affixing notice to the windshield or some other conspicuous place on the vehicle. The notice shall state that the vehicle will be removed by the town on a specified date, no sooner than seven (7) days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time. 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 possession of the vehicle, or the owner, lessee or occupant of the real property upon which the vehicle is located, can be ascertained in the exercise of reasonable diligence, the notice shall be given by first-class mail. The person who mails the notice(s) shall retain written record to show the name(s) and address(es) to which mailed and the date mailed.

(b) 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, such appeal shall be made to the board of adjustment in writing, heard at the next regularly scheduled meeting of the board of adjustment, and further proceedings to remove the vehicle shall be stayed until the appeal is heard or decided.

(Ord. No. 2452, § 1, 10-16-90)

Sec. 10-121. Exceptions to prior notice requirement.

The requirement that notice be given prior to the removal of an abandoned, nuisance or junked motor vehicle may, as determined by the authorizing official, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorizing official in the appropriate daily records. Circumstances justifying 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 determine 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.* With respect to abandoned or nuisance vehicles left on town-owned property other than the streets or highways and on private property, such 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. 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. No. 2452, § 1, 10-16-90)

Sec. 10-122. 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 town, be removed to a storage garage or area by the tow-truck operator or towing business contracting to perform such services for the town. Whenever such a vehicle is removed, the authorizing town official shall immediately notify the last-known registered owner of the vehicle, such notice to include the following:

- (1) The description of the 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.

(b) The town shall attempt to give notice to the vehicle owner by telephone; however, regardless if the owner is reached by telephone, written notice, including the information set forth in subsections (a)(1) through (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 agent.

(c) If the vehicle is registered in North Carolina, notice shall be given within twenty-four (24) hours. If the vehicle is not registered in the state, notice shall be given to the registered owner within seventy-two (72) hours from the removal of the vehicle.

(d) Whenever an abandoned, nuisance or junked motor vehicle is removed and such vehicle has no valid registration or registration plates, the authorizing 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 subsection (a)(1) through (5) above.

(Ord. No. 2452, § 1, 10-16-90)

Sec. 10-123. Owner responsible for removal costs.

If an abandoned, nuisance or junked motor vehicle is removed by or at the direction of the authorizing official, or if any vehicle subject to seizure pursuant to the laws of the State of North Carolina is seized by the police department, the owner shall pay all reasonable costs incidental to the removal and storage of such vehicle and incidental to locating the owner thereof.

(Ord. No. 2452, § 1, 10-16-90; Ord. No. 2497, § 1, 8-5-91)

Sec. 10-124. Right to probable cause hearing before sale or final disposition of vehicle.

After the removal of an abandoned, nuisance or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed 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 seventy-two (72) hours of receipt of the request and the hearing shall be conducted in accordance with the provisions of General Statutes, Section 20-219.11 as amended.

(Ord. No. 2452, § 1, 10-16-90)

Sec. 10-125. 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 such fees and charges to the tow-truck operator or towing business having custody of the removed vehicle. Upon regaining possession of the vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this article.

(b) In the event that the vehicle has been declared a violation of sections 10-117 or 10-118 above, the owner of the vehicle or persons entitled

to possession, prior to regaining possession, shall submit in writing his or her plan to ensure the violation is not repeated and obtain the approval of the appropriate official of the community development department, who shall examine the plan for compliance with both this article and the Land Use Ordinance.

(Ord. No. 2452, § 1, 10-16-90)

Sec. 10-126. Sale and disposition of unclaimed vehicle.

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession within thirty (30) days of official post-towing notification will be disposed of by the tow-truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the town and in accordance with article 1 of chapter 44A of the North Carolina General Statutes.

(Ord. No. 2452, § 1, 10-16-90)

Sec. 10-127. 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 such property could have the vehicle removed under applicable state law procedures. In no case will a vehicle be removed by the town from private property without a written request from the owner, occupant or lessee, except in those cases where a vehicle is a nuisance or junked motor vehicle which has been ordered removed by the authorizing official of the town. 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.

(b) The town will not, pursuant to any authority granted to the town by North Carolina General Statutes, Section 160A-303.2, remove or dispose of an abandoned or junked motor vehicle which is used on a regular basis for business or personal use; for purposes of this article, "use" of a vehicle

shall be defined as employment of the vehicle for purposes of transportation, and does not include possessing a vehicle in an inoperable condition or any activities related to the maintenance, repair or restoration of the vehicle.
(Ord. No. 2452, § 1, 10-16-90; Ord. No. 3402, § 3, 5-16-06)

Sec. 10-128. 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 an abandoned, nuisance or junked motor vehicle for disposing of such vehicle as provided in this article.
(Ord. No. 2452, § 1, 10-16-90)

Sec. 10-129. Exceptions.

Nothing in this article shall apply to any vehicle:

- (1) Which is located in a bona fide "automobile graveyard" or "junkyard" as defined in General Statutes, Section 136-143, in accordance with the "Junkyard Control Act," General Statutes, Section 136-141 et seq.;
 - (2) Which is in an enclosed building;
 - (3) Which is on the premises of a business enterprise that is being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise; or
 - (4) Which is in an appropriate storage place or depository maintained in a lawful place and manner by the town.
- (Ord. No. 2452, § 1, 10-16-90)

Sec. 10-130. 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 article unless or until all towing and impoundment fees which are due, or bond in lieu of such

fees, have been paid. A violation of this section is punishable as a misdemeanor with a maximum fine of one hundred dollars (\$100.00).
(Ord. No. 2452, § 1, 10-16-90; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 10-131. Civil penalty provided.

(a) Any violation of sections 10-117 and 10-118 of this article shall subject the offender to a civil penalty in the amount in accordance with section 1-8. No penalty shall be imposed if the offender removes the motor vehicle from the property or meets the location and concealment requirements of section 10-118(e) within seven (7) days of the date of the pretowing notice has been given by the town pursuant to section 10-120. If the offender does not remove the motor vehicle from the property or meet the location or concealment requirements within seven (7) days of the pretowing notice, the penalty may be imposed for each day the vehicle is permitted to remain on the property commencing with the date the pretowing notice was given and terminating on the date of the removal of the vehicle, with each day's violation constituting a separate offense. Violation of sections 10-117 and 10-118 shall not be prosecuted as a misdemeanor.

(b) The offender shall be issued a written citation by delivery in person or mailed by certified or registered mail. The civil penalty must be paid within seventy-two (72) hours of receipt of written citation by the offender.

(c) The penalty may be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty within the prescribed period of time after he or she has been issued a citation.
(Ord. No. 2452, § 1, 10-16-90; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 10-132. Article cumulative.

Procedures set forth in this article shall be in addition to any other remedies that may exist under law or ordinance to the abatement of public nuisances.
(Ord. No. 2452, § 1, 10-16-90)

Chapter 11

OFFENSES—MISCELLANEOUS PROVISIONS

Article I. In General

- Sec. 11-1. Reserved.
- Sec. 11-2. Disorderly conduct at public meetings.
- Sec. 11-3. Unlawful to breach peace, engage in riotous, disorderly conduct.
- Sec. 11-4. Selling, delivering, releasing gasoline to intoxicated persons.
- Sec. 11-5. Leaving abandoned iceboxes, etc., accessible to children.
- Sec. 11-6. Writing, painting, drawing, carving, cutting obscenities in public places.
- Sec. 11-7. Posting of advertising.
- Sec. 11-8. Defacing, damaging public property.
- Sec. 11-9. Removal of books and papers from town hall.
- Sec. 11-10. Use of town property.
- Sec. 11-11. Littering streets and other town property.
- Sec. 11-12. Reserved.
- Sec. 11-13. Playing games, throwing, missiles on streets, sidewalks, using, erecting and maintaining recreational devices in streets and rights-of way.
- Sec. 11-14. Throwing missiles to injury or annoyance of others.
- Sec. 11-15. Loud, disturbing and unnecessary noises.
- Sec. 11-16. Massages for hire or reward which include touching genitals prohibited; exceptions; penalties.
- Sec. 11-17. Consumption of alcoholic beverages; social district.
- Sec. 11-18. Model aircraft and unmanned aircraft on town property.
- Sec. 11-19. Closing of public parks.
- Sec. 11-20. False alarms.
- Secs. 11-21—11-30. Reserved.

Article II. State of Emergency Provisions

- Sec. 11-31. Territorial applicability.
- Sec. 11-32. State of emergency; restrictions authorized.
- Sec. 11-33. Proclamation imposing prohibitions and restrictions.
- Sec. 11-34. Curfew.
- Sec. 11-35. Restrictions on possession, consumption or transfer of intoxicating liquor.
- Sec. 11-36. Restrictions on possession, transportation and transfer of dangerous weapons and substances.
- Sec. 11-37. Restrictions on access to areas—Generally.
- Sec. 11-38. Same—Activities.
- Sec. 11-39. Amendments of the proclamation.
- Sec. 11-40. Removal of prohibitions and restrictions.
- Sec. 11-41. Separate and superseding proclamations.
- Sec. 11-42. Absence or disability of mayor.
- Sec. 11-43. Penalty for violation.
- Secs. 11-44—11-49. Reserved.

Article III. Graffiti

- Sec. 11-50. Graffiti prohibited.
- Sec. 11-51. Definitions.
- Sec. 11-52. Timely removal of graffiti.
- Sec. 11-53. Notice of removal.
- Sec. 11-54. Removal by town.

GARNER CODE

- Sec. 11-55. Petition for relief.
- Sec. 11-56. Abatement conference.
- Sec. 11-57. Enforcement.

ARTICLE I. IN GENERAL

Sec. 11-1. Reserved.

Editor's note—Ord. No. 1738, §§ 1—12 and 14, enacted Sept. 22, 1981, codified herein as Art. II, § 11-31 et seq., has been treated as superseding former § 11-1, relative to a state of emergency curfew, at the discretion of the editor. Said section previously derived from Ord. No. 1006, § 22, enacted April 6, 1959, and Ord. No. 1177, § 1, enacted April 5, 1968. See also the editor's footnote to Art. II of this chapter.

Sec. 11-2. Disorderly conduct at public meetings.

It shall be unlawful for any person to be disorderly at any exhibition or public meeting in the town, or in any way to annoy or disturb the audience. A violation of this section is punishable as a misdemeanor with a maximum fine of one hundred dollars (\$100.00).

(Ord. No. 1006, § 1(8), 4-6-59; Ord. No. (2022)5091, § 1, 1-3-22)

State law reference—Disturbing meetings, G.S. § 14-288.4(a)(7).

Sec. 11-3. Unlawful to breach peace, engage in riotous, disorderly conduct.

It shall be unlawful for any person to commit any breach of the peace or engage in any riotous or disorderly conduct within the limits of the town. A violation of this section is punishable as a misdemeanor with a maximum fine of one hundred dollars (\$100.00).

(Ord. No. 1006, § 1(7), 4-6-59; Ord. No. (2022)5091, § 1, 1-3-22)

State law reference—Riots and civil disorders, G.S. § 14-288.1 et seq.

Sec. 11-4. Selling, delivering, releasing gasoline to intoxicated persons.

It shall be unlawful for any person within the corporate limits of the town to sell, deliver or release any amount of gasoline to any person under the influence of any intoxicating liquor or drugs. A violation of this section is punishable as a misdemeanor with a maximum fine of one hundred dollars (\$100.00).

(Ord. No. 1006, § 1(15), 4-6-59; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 11-5. Leaving abandoned iceboxes, etc., accessible to children.

(a) It shall be unlawful within the town limits for any person to leave outside of any building or dwelling in a place accessible to children any abandoned, unattended or discarded icebox, refrigerator or any other container of any kind which has an airtight door or lock which may not be released for opening from the inside of such icebox, refrigerator or container.

(b) It shall be unlawful for any person within the town limits to leave outside of any building or dwelling in a place accessible to children any abandoned, unattended or discarded icebox, refrigerator or any other container of any kind which has an airtight snaplock or other device thereon without first removing the snaplock or doors from such icebox, refrigerator or container.

(c) A violation of this section is punishable as a misdemeanor with a maximum fine of one hundred dollars (\$100.00).

(Ord. No. 1006, § 1(18), 4-6-59; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 11-6. Writing, painting, drawing, carving, cutting obscenities in public places.

It shall be unlawful for any person to write, paint, draw, carve or cut any obscene word, letter or device in any public place in the town. A violation of this section is punishable as a misdemeanor with a maximum fine of one hundred dollars (\$100.00).

(Ord. No. 1006, § 1(3), 4-6-59; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 11-7. Posting of advertising.

It shall be unlawful for any person to inscribe or post any outdoor advertising matter upon any public street or sidewalk or any post, tree, standard or other structure on the streets or public alleys of the town; provided, however, this section shall not prohibit the posting of signs in an effort to raise funds for a public charitable

purpose. A violation of this section is punishable as a misdemeanor with a maximum fine of one hundred dollars (\$100.00).

(Ord. No. 1006, § 1(11), 4-6-59; Ord. No. (2022)5091, § 1, 1-3-22)

Editor's note—Ord. No. (2022)5091, § 1, adopted Jan. 3, 2022, amended § 11-7 and in doing so changed the title of said section from "Posting of outdoor advertising" to "Posting of advertising," as set out herein.

State law reference—Unlawful posting of advertisements, G.S. § 14-145.

Sec. 11-8. Defacing, damaging public property.

It shall be unlawful for any person to paint, cut, carve or in any way mark upon any building, structure or property of the town any letters, symbols, devices or marks of any character, or in any manner to deface or damage any of such property; provided, that this section shall not apply to painting, carving or marking upon such property performed by any employee or agent of the town under proper authority and supervision. A violation of this section is punishable as a misdemeanor with a maximum fine of one hundred dollars (\$100.00).

(Ord. No. 1006, § 1(12), 4-6-59; Ord. No. (2022)5091, § 1, 1-3-22)

State law references—Willful and wanton injury to real property, G.S. § 14-127; injuries to public buildings and facilities, G.S. § 14-132.

Sec. 11-9. Removal of books and papers from town hall.

It shall be unlawful for any person to remove any books, vouchers, checks, warrants or any other financial records of the town from the town hall, except that such records shall be removed through or in response to an order of court as provided by law for the production of such books, papers or vouchers in a trial or proceeding; or, except at the specific request of the state local government commission; or, except as the same may be needed and used by the town attorney in connection with litigation or proving claims or controversies affecting the town; or, upon the authority of the town council given, in which event the articles shall only be removed to such

place as shall have been agreed upon, and for such time as shall have been agreed upon by the council.

(Ord. No. 1006, § 1(16), 4-6-59)

Sec. 11-10. Use of town property.

It shall be unlawful for any person to make any use of any property belonging to the town, except for those purposes which shall be necessary to carry out the governmental activity of the town, except where short-term rental of town property in accordance with adopted town use policies. This section specifically prohibits the use of any equipment or the appropriation of any funds for the benefit of any private person, charity, firm or corporation, unless such person, charity, firm or corporation shall be employed to carry out a governmental function of the town. A violation of this section is punishable as a misdemeanor with a maximum fine of one hundred dollars (\$100.00).

(Ord. No. 1006, § 20, 4-6-59; Ord. No. 1032, 6-6-60; Ord. No. 3815, § I, 5-17-16; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 11-11. Littering streets and other town property.

(a) It shall be unlawful for any person to place or leave or cause to be placed or left temporarily or permanently any trash, garbage or refuse such as, but not limited to, bottles, cans, papers, wrappers, scrapped automobiles, scrapped trucks or parts thereof on the right-of-way of any street within the town or upon any other property owned or controlled by the town; provided, however, that deposits adjacent to the curb or street edge as provided for in section 5-6 of this Code for pickup and disposal by the sanitation department shall not be a violation of this section.

(b) The placing or leaving of the articles or matter forbidden by this section shall, for each day or portion thereof that such articles or matter are placed or left, constitute a separate offense.

(c) A violation of this section is punishable as a misdemeanor with a maximum fine of one hundred dollars (\$100.00).

(Ord. No. 1006, § 21, 4-6-59; Ord. of 10-3-55, § 1; Ord. No. 1112, § 1, 1-7-63; Ord. No. 1513, §§ 1, 2, 3-21-78; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 11-12. Reserved.

Editor's note—Ord. No. 1442, adopted May 3, 1976, repealed § 11-12, pertaining to playing games on Sunday, derived from Ord. No. 1007, adopted April 6, 1959.

Sec. 11-13. Playing games, throwing, missiles on streets, sidewalks, using, erecting and maintaining recreational devices in streets and rights-of way.

(a) All games of every description, and throwing stones or other missiles, are forbidden upon the streets and sidewalks of the town.

(b) No person may erect any type of recreational device in a public street or right of way. "Recreational device" as used herein, includes but is not limited to, basketball goals, soccer goals, hockey goals, skate board ramps, pylons for road courses for bicycles and skates, and any similar devices which encourage or aid in using streets or public rights-of way for play. "Unlawful recreational device" as used herein includes any such device when located in a public street or right-of way.

(c) No person may aid or abet a minor in the erection or use of any unlawful recreational device.

(d) No person may allow an unlawful recreational device to remain erected in a public street or right-of-way abutting the real property owned or occupied by that person.

(e) Penalty for failing to remove unlawful recreational devices:

- (1) Any person in violation of sections (b), (c) or (d) above shall have the duty to remove the unlawful recreational device from the public street or right-of-way.
- (2) Any person described in section (1) who fails to remove any unlawful recreational device within forty-eight (48) hours of

being given notice to remove it by the Garner Police Department or any other government agency with jurisdiction shall be subject to a penalty.

- (3) Notification shall consist of a written notice either hand-delivered to the property owner or occupant, or posted to the front door of the dwelling of the property owner or occupant of the property responsible for the violation.

(f) Removal and reclaiming of unlawful recreational devices:

- (1) If the Garner Police Department or other government agency with jurisdiction concludes that the unlawful recreational device constitutes an immediate danger to public health or safety, it shall be removed immediately without prior notification to the property owner or occupant, and notification of the removal, and of a violation, if any, will be posted at the front door of the dwelling of the property owner or occupant responsible for the violation.
- (2) The property owner or occupant may reclaim the unlawful recreational device by submitting a written statement certifying that the device will not be placed in the right-of-way or public street again and by reimbursing the Town of Garner for all expenses incurred in its removal and storage.
- (3) The Town of Garner shall not be liable for damages incurred to the unlawful recreational device during its removal and storage.

(g) Amount, collection of penalty:

- (1) The enforcement of this section shall be carried out jointly by the Town of Garner Planning, Inspections, and Police Departments.
- (2) Any violation of this section shall be punishable by a civil penalty in accordance with section 1-8.
- (3) If the person responsible for the violation has not reached the age of eighteen (18)

years, that person's parent, guardian or custodian shall be responsible for any civil penalty incurred by the person as the result of a violation of this section.

(h) Permitted recreational devices. Nothing in this section shall preclude the director of parks and recreation for the Town of Garner from issuing a permit for a sanctioned sporting event, contest or demonstration where sporting equipment is to be placed on a closed public street or right-of-way.

(Ord. No. 1002, § 1(12), 4-6-59; Ord. No. 3254, § 1, 9-2-03; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 11-14. Throwing missiles to injury or annoyance of others.

The throwing of stones or other missiles by beanshooters or otherwise in private lots or public places to the injury or annoyance of others is prohibited. A violation of this section is punishable as a misdemeanor with a maximum fine of one hundred dollars (\$100.00).

(Ord. No. 1002, § 1(12), 4-6-59; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 11-15. Loud, disturbing and unnecessary noises.

(a) *Unreasonable noises prohibited.* Subject to the provisions of this section, the creation of any unreasonably loud, disturbing and unnecessary noise in the town is prohibited. Noise of such character, intensity and duration as to be detrimental to the health and welfare of any individual is prohibited.

(b) *Particular noises prohibited.* The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section, but the enumeration shall not be deemed to be exclusive, namely:

- (1) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle, except as a warning or danger signal; the creation of any unreasonably loud or harsh sound by means of any such signal device, whether or not such device is on any vehicle, and

the sounding of any such device for an unnecessary and unreasonable period of time.

- (2) The playing of any radio, phonograph, television set, record player, sound reproduction device or any musical instrument in such a manner or with such volume, during the hours between 11:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of persons in any dwelling house, apartment or other type of residence.
- (3) The use of any automobile, motorcycle or other vehicle in such manner as to create loud and disturbing noise or unnecessary grating, grinding, screeching of tires or rattling sounds.
- (4) The discharge into the open air of the exhaust of any stationary internal combustion engine or motor vehicle engine except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (5) The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort and repose of any person in the vicinity.
- (6) The creation of any excessive noise on any street adjacent to any school while it is in session, any library while open, or any church during services, which unreasonably interferes with the activity of any such institution.
- (7) The erection, alteration, demolition, repair of or excavation for any building, structure or other improvement in a residential district between the hours of 6:00 p.m. and 7:00 a.m., except in the case of emergency work in the preservation of public health or safety.
- (8) The creation of loud and excessive noise in connection with loading or unloading any vehicle, or the opening, closing or destruction of any bale, box, crate or container.
- (9) The use of any mechanical device operated by compressed air unless the noise

created thereby is effectively muffled and reduced or unless such use is in the preservation of public health, safety or welfare.

- (10) The use of any drum, loudspeaker or other sound amplifying device for the purpose of creating noise to attract attention to any performance, show or sale or display of merchandise.
- (11) The playing of any radio, phonograph, television set, record player, sound reproduction device or any musical instrument (cumulatively, "device") or electronic equipment from within any dwelling unit (including structures customarily appurtenant to dwelling units such as a porch, patio, balcony, deck, or from the carport, driveway, yard or sidewalk of a dwelling unit, or from a vehicle parked in a residential district), in such a volume as to be sufficiently audible as to annoy or disturb the quiet, comfort or repose of persons in a dwelling unit between the hours of 10:00 p.m. and 7:00 a.m.

(c) *Penalty.* Violation of this section, or any part thereof, shall be punishable as a civil penalty in accordance with section 1-8.

(d) *Enforcement by private party.*

- (1) In recognition that excessive noise violations can occur at any time in any place within the town limits, and in recognition that police officers and other town personnel cannot be present for all excessive noise violations, it is the intent of the town council to create a private cause of action for relief from violations of this section.
- (2) Any person who has been harmed by a violation of this section, committed on or after May 16, 2023, may file a civil complaint with the appropriate trial division of the general court of justice seeking damages or injunctive relief.

(Ord. No. 1380, §§ 1—3, 10-22-74; Ord. No. 2613, § 1, 2-22-94; Ord. No. 33208, § 1, 9-3-02; Ord. No. 3425, 9-5-06; Ord. No. (2022)5091, § 1, 1-3-22; Ord. No. (2023)5200, § 1, 5-16-23)

Sec. 11-16. Massages for hire or reward which include touching genitals prohibited; exceptions; penalties.

(a) It shall be unlawful for any person, for hire, or reward, to administer a massage to a person of the opposite sex when such massage includes the touching, by any means of physical contact, the genitals of the person receiving such massage.

(b) This section shall not apply to any physician, surgeon, chiropractor, osteopath or physical therapist duly licensed by the State of North Carolina, or to a licensed nurse acting under the direct prescription and direction of any such physician, surgeon, chiropractor or osteopath, while such physician, surgeon, chiropractor, osteopath or physical therapist is engaged in the practice of this profession.

(c) Any person who shall violate the provisions of this section shall, upon conviction of a misdemeanor thereof, be fined not more than one hundred dollars (\$100.00), or imprisoned for not more than thirty (30) days.

(Ord. No. 1410, § 1, 7-7-75; Ord. No. (2022)5091, § 1, 1-3-22)

Editor's note—Ord. No. 1410, § 1, adopted July 7, 1975, amended the Code by adding provisions designated as § 11-15; said provisions have been redesignated as § 11-16 inasmuch as the Code already contains a § 11-15.

Sec. 11-17. Consumption of alcoholic beverages; social district.

(a) It shall be unlawful for any person to consume any alcoholic beverage or to possess an open container of any alcoholic beverage, on any property owned, occupied, or controlled by the town, including, without limitation, any public park, building or grounds used for municipal purposes, or the area within the right-of-way of any street, sidewalk, alley or public parking area, provided; however, sale, distribution, possession and consumption of alcoholic beverages is permitted:

- (1) Within a specified area at community events which have been approved by town council resolution, where the applicant has specified such area and

such beverages in the application and has all required ABC permits, limited to malt beverages and/or unfortified wine;

- (2) On the property of the Garner Performing Arts Center, subject to a permit issued by the town manager and all applicable ABC permits, limited to malt beverages and/or unfortified wine;
- (3) On the property of the Garner Historic Depot Museum, subject to a permit issued by the town manager and all applicable ABC permits, limited to malt beverages and/or unfortified wine;
- (4) On property within the Historic Downtown Garner Study Area as delineated in the Historic Downtown Garner Plan, during events sponsored by the Downtown Garner Association, subject to a permit issued by the town manager and all applicable ABC permits, limited to malt beverages and/or unfortified wine;
- (5) Within the event center limits surrounding and including the Rand-Bryan House, subject to a lease between the operator and the town and all applicable ABC permits for any alcoholic beverage including fortified wine, spirituous liquor, and mixed beverages; or
- (6) Within a social district designated in accordance with this section.

(b) A business which is licensed by the state to sell alcoholic beverages (malt beverages, unfortified wine, fortified wine and mixed beverages) after noon on Sunday pursuant to the licensed premises' permit issued under G.S. § 1.B-1001 may sell the aforesaid beverages beginning at 10:00 a.m. on Sunday.

(c) A violation of this section is punishable as a misdemeanor with a maximum fine of one hundred dollars (\$100.00).

(d) *Social district.*

- (1) Pursuant to the provisions of G.S. §§ 160A-205.4 and 18B-300.1, and as otherwise allowed by state law, the Garner Social District is hereby created and designated as shown on the Map of Garner

Social District Effective Date: March 1, 2023, as expanded and amended by the Map of Garner Social District Boundary Revised: March 6, 2023, and delineated by signage posted on public or private property or other markings to clearly delineate the boundaries of the social district.

- (2) Social district means a defined outdoor area in which a person age twenty-one (21) years or above may consume alcoholic beverages sold by ABC licensed permittees, but not including the permittee's licensed premises or an extended area allowed under G.S. § 18B-904(h). Social district includes sidewalks and crosswalks, but excludes public streets unless specifically closed as allowed by Town Code or other applicable law.
- (3) The days and hours during which alcoholic beverages, including malt beverages, unfortified or fortified wine, spirituous liquor, and mixed beverages, may be consumed within the Garner Social District are Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday between the hours of 12:00 p.m. and 10:00 p.m. and Sunday between the hours of 12:00 p.m. and 5:00 p.m. At all other times, the provisions and terms of State and local laws concerning the possession and consumption of alcohol shall be in full force and effect.
- (4) Any alcoholic beverage purchased for consumption in the social district shall only be provided in a container complying G.S. § 18B-300.1 and the town's adopted Garner Social District Maintenance and Operations Plan and shall only be consumed in the social district.
- (5) The beverage and the designated container must be disposed of before the person in possession exits the social district, unless the person is reentering the licensed premises where the alcoholic beverage was purchased, or before the person enters a vehicle. The owner of

any premises located within the social district may prohibit persons from entering the premises with an alcoholic beverage.

- (6) When a town-approved special event is held within or immediately adjacent to the boundaries of the social district, the special event may supersede this section if so authorized in the special event permit, including, but not limited to, suspending the applicability of the social district during the special event. The special event permittee may allow alcoholic beverages in social district containers to be carried into the special event area or may refuse to allow any or all alcoholic beverages in the special event area, including those sold in the social district.

- (7) Violations of the town's adopted Garner Social District Maintenance and Operations Plan may be assessed a civil penalty in accordance with section 1-8 of this Code.

(Ord. No. 1490, § 1, 9-6-77; Ord. No. 2645, §§ 1, 2, 9-6-94; Ord. No. 2709, § 1, 11-21-95; Ord. No. 2866, § 1, 10-5-98; Ord. No. 3367, §§ 1, 2, 11-22-05; Ord. No. 3435, § 2, 11-21-06; Ord. No. 3570, § 1, 1-4-10; Ord. No. 3868, § 1, 8-7-17; Ord. No. (2020)4098, § 1, 12-22-20; Ord. No. (2021)2456, § 1, 7-6-21; Ord. No. (2022)5091, § 1, 1-3-22; Ord. No. (2022)5147, § 1, 10-3-22; Ord. No. (2022)5162, § 1, 12-5-22; Ord. No. (2023)5181, § 1, 2-6-23; Ord. No. (2023)5185, § 1, 3-6-23)

Editor's note—Ord. No. (2022)5162, § 1, adopted Dec. 5, 2022, amended § 11-17 and in doing so changed the title of said section from "Consumption of alcoholic beverages" to "Consumption of alcoholic beverages; social district," as set out herein.

Sec. 11-18. Model aircraft and unmanned aircraft on town property.

(a) Launch and/or recovery of model aircraft or unmanned aircraft is prohibited on all town-owned property without specific written permission from the town manager or his designee, who may allow it for governmental purposes to include, but not be limited to, photography, so long as the operation of the model aircraft or unmanned

aircraft is done in accordance with the requirements of the Federal Aviation Administration and North Carolina General Statutes.

(b) For the purposes of this section, "model aircraft" is defined as an aircraft (any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air), that is mechanically driven or launched into flight and that meets all of the following requirements:

- (1) Is flown solely for hobby or recreational purposes.
- (2) Is not used for payment, consideration, gratuity, or benefit, directly or indirectly charged, demanded, received, or collected, by any person for the use of the aircraft or any photographic or video image produced by the aircraft.

(c) For the purposes of this section, "unmanned aircraft" is defined as an aircraft (any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air), that is operated without the possibility of human intervention from within or on the aircraft and that does not meet the definition of model aircraft.

(d) Any violation of this section shall be punishable by a civil penalty in accordance with section 1-8.

(Ord. No. 2737, § 1, 5-6-96; Ord. No. 3816, § I, 6-6-16; Ord. No. (2022)5091, § 1, 1-3-22)

Editor's note—Ord. No. 3816, § I, adopted June 6, 2016, changed the title of § 11-18 from "Model aircraft on town property prohibited" to read as herein set out.

State law reference—Definition of "model aircraft." G.S. § 15A-300.1.

State law reference—Restrictions on use of unmanned aircraft systems, G.S. § 15A-300.1.

State law reference—Regulation of launch and recovery sites, G.S. § 15A-300.2.

State law reference—Permit required for commercial operation of unmanned aircraft systems, G.S. § 63-96.

Sec. 11-19. Closing of public parks.

All public parks shall close at dark, except that activities authorized by the town may be conducted beyond that time. Notice of public park and/or authorized public activity closing

times shall be prominently posted. Any violation of this section shall be punishable by a civil penalty in accordance with section 1-8.

(Ord. No. 2734, § 1, 4-16-96; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 11-20. False alarms.

(a) A penalty shall be assessed per each false alarm occurrence in excess of three (3) per calendar year for each alarm user. The penalty shall be a debt owed by the alarm user to the Town of Garner and if not paid may be collected as a civil penalty. Each penalty incurred for false alarms at the premises shall be paid within thirty (30) days from the date of the penalty notification.

(b) The amount of penalty shall increase based on repeated occurrences, as follows:

- (1) The fourth and fifth false alarm within a calendar year will be assessed a fifty-dollar (\$50.00) penalty per occurrence and collectable as in subsection 11-20(a).
- (2) The sixth through the eighth false alarms within a calendar year period shall be assessed a penalty at one hundred dollars (\$100.00) per occurrence and collectable as in subsection 11-20(a).
- (3) The ninth and tenth false alarms within a calendar year period shall be assessed a penalty at one hundred fifty dollars (\$150.00) per occurrence and shall be collectable as in subsection 11-20(a).
- (4) All false alarms in excess of ten (10) within a calendar year period shall be assessed a penalty at two hundred fifty dollars (\$250.00) per occurrence and shall be collectable as in subsection 11-20(a).
- (5) Continuing alarms: An alarm user or his representative shall reset an alarm when notified by the police department or communications center that such alarm has been activated. All audible alarms shall be equipped with an automatic reset device that will reset and cease to sound the alarm after no more than thirty (30) minutes of continuous activation. When an alarm activates continuously for a period of sixty (60) minutes from the time an officer initially responded to the alarm due to the failure of the alarm user or his representative to reset the alarm, it shall be deemed a false alarm and each subsequent 60-minute period or portion thereof that the alarm continues to be activated shall be considered a separate false alarm. The alarm user shall be subject to a civil penalty for such continuing alarm at a flat rate of ten dollars (\$10.00) for each false alarm as defined herein, not to exceed one hundred dollars (\$100.00) for any 24-hour period. The absence of direct notice to the alarm user or his representative of the activation shall not constitute a defense to these

fees if the police department or communications center is not reasonably able to contact such person due to the failure of the alarm user to conform to the provisions of subsection 11-20(g) of this article.

- (6) Any false alarms occurring within seven (7) days of the installation of a new alarm system shall not be considered false alarms for the purposes of the assessment of penalties. Written documentation of the installation of a new alarm system must be provided for waiver of the penalty.

(c) *Definitions.* For purposes of this section the following words shall have the following meanings:

Alarm system: Any single device or assembly of equipment designated to signal the occurrence of an illegal entry, theft, robbery or other activity requiring immediate police attention, but does not include alarms installed in motor vehicles or fire alarms.

Alarm signal: A detectable signal, either audible or visual, generated by an alarm system.

Alarm user: Any person, corporation, partnership, proprietorship, governmental or educational entity or any other entity owning or leasing an alarm system, or on whose premises an alarm system is maintained for the protection of such premises.

False alarm: The activation of an alarm system through mechanical or electronic failure, malfunction, improper installation, improper or inadequate maintenance, or the negligence of the alarm user, his employees or agents, and signals activated to summon police personnel unless law enforcement response was cancelled by the alarm user or his agent before police personnel arrive at the alarm location. A false alarm shall not include an alarm which can reasonably be determined to have been caused or activated by unusually violent conditions of nature, nor does it include other extraordinary circumstances not reasonably subject to control by the alarm user. In

addition, an alarm activated during an alarm system testing procedure shall not be considered a false alarm if the user first notifies and receives permission from the user's alarm company, or designee, to test the system. An alarm is false within the meaning of this ordinance when, upon inspection by the chief of police, or his designee, evidence indicates that no unauthorized entry, robbery, or other such crime was committed or attempted in or on the premises which would have activated a properly functioning alarm system.

(d) *Response to alarm; determination of validity.*

- (1) Law enforcement response. Whenever an alarm is activated in the Town of Garner and the police department does respond, a police officer on the scene of the activated alarm system shall inspect the area and shall determine whether the police response was in fact necessary as indicated by the alarm system or whether the alarm was a false alarm within the meaning of this section.
- (2) Notification. If the law enforcement officer at the scene of the activated alarm system determines the alarm to be false within the meaning of this ordinance, the officer shall make a report of the false alarm. An alarm user shall be notified of each false alarm.
- (3) The chief of police or designee shall have the authority to waive any penalty charged to an alarm user when such alarm user submits to the chief of police or designee adequate evidence that the alleged false alarm was not actually false as defined in section 11-20(c).

(e) *Discontinuance of response.* Discontinuance of law enforcement response to alarms—The failure of an alarm user to make payment of any penalties pursuant to this section shall result in a discontinuance of law enforcement officer response to alarms occurring at the premises. Police response will continue when payment of assessed penalties and fees is received or a call from the response location confirms that police response is needed.

(f) *Methods of enforcement.* The Town of Garner, its officers, employees and agents may enforce the provisions of this section by one or a combination of any of the following methods:

- (1) Initiation of a civil action in the nature of a debt to collect the civil penalties and fees provided for within this section.
- (2) Initiation of an action in a court of competent jurisdiction for any injunction, abatement order or any other appropriate equitable remedy.

(g) *Obligations of alarm users.* Each alarm user in the city shall post in a conspicuous place on the premises where the alarm system is maintained and shall furnish to the police department the name(s) and telephone number(s) of the person(s) currently authorized and able to deactivate the alarm system. It shall be the responsibility of the alarm user to provide an adequate number of responsible persons to permit notification of an activation at any time and to keep this information current.
(Ord. No. 3206, § 1, 8-20-02; Ord. No. 3469, § 1, 6-19-07)

Editor's note—Ord. No. 3469, § 2, adopted June 19, 2007, amended the title of § 11-20 to read as herein set out. Formerly said section was entitled False Fire Alarms.

Secs. 11-21—11-30. Reserved.

ARTICLE II. STATE OF EMERGENCY PROVISIONS*

Sec. 11-31. Territorial applicability.

This article shall apply within the corporate limits of Garner.

(Ord. No. 1738, § 14, 9-22-81)

***Editor's note**—Ord. No. 1738, §§ 1—12 and 14, enacted Sept. 22, 1981, has been codified as herein set out in Ch. 11, Art. II, §§ 11-31—11-43. Said provisions did not expressly amend the Code; hence codification has been at the discretion of the editor. See also the editor's note following § 11-1.

Sec. 11-32. State of emergency; restrictions authorized.

(a) A state of emergency shall be deemed to exist whenever during times of public crisis, disaster, rioting, catastrophe or similar public emergency, for any reason, public safety authorities are unable to maintain public order or afford adequate protection for lives, safety or property, or whenever the occurrence of any such condition is imminent.

(b) In the event of an existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within Garner or any part thereof, or threatening damage to or destruction of property, the mayor of Garner is hereby authorized and empowered under Section 14-288.12 to issue a public proclamation declaring to all persons the existence of such a state of emergency and in order to more effectively protect the lives and property of people within the municipality, to place in effect any or all of the restrictions hereinafter authorized.

(c) The mayor is hereby authorized and empowered to limit by the proclamation the application of all or any part of such restrictions to any area specifically designated or described within the municipality and to specific hours of the day or night; and to exempt from all or any part of such restrictions, while acting in the line of and within the scope of their respective duties, law enforcement officers, firemen and other public employees, rescue squad members, doctors, nurses, employees of hospitals and other medical facilities; on-duty employees of public utilities, public transportation companies, and newspapers, magazine, radio broadcasting, and television broadcasting corporations operated for profit; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health and welfare needs of the people within the municipality.

(Ord. No. 1738, § 1, 9-22-81)

Sec. 11-33. Proclamation imposing prohibitions and restrictions.

(a) The mayor of Garner by proclamation may impose the prohibitions and restrictions specified in Sections 11-34 through 11-38 of this

article in the manner described in those sections. The mayor may impose as many of those specified prohibitions and restrictions as he finds are necessary, because of an emergency, to maintain an acceptable level of public order and services, and to protect lives, safety and property. The mayor shall recite his findings in the proclamation.

(b) The proclamation shall be in writing. The mayor shall take reasonable steps to give notice of the terms of the proclamation to those affected by it and shall post a copy of it in the town hall. The mayor shall retain a text of the proclamation and furnish upon request certified copies of it for use as evidence.

(Ord. No. 1738, § 2, 9-22-81)

Sec. 11-34. Curfew.

(a) The proclamation may impose a curfew prohibiting in certain areas and during certain periods the appearance in public of anyone who is not a member of an exempted class. The proclamation shall specify the geographical area or areas and the period during each twenty-four-hour day to which the curfew applies. The mayor may exempt from some or all of the curfew restrictions classes of people whose exemption the mayor finds necessary for the preservation of the public health, safety and welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

(b) Unless otherwise specified in the proclamation, the curfew shall apply during the specified period each day until the mayor by proclamation removes the curfew.

(Ord. No. 1738, § 3, 9-22-81)

Sec. 11-35. Restrictions on possession, consumption or transfer of intoxicating liquor.

The proclamation may prohibit the possession or consumption of any intoxicating liquor, including beer and wine, other than on one's own premises, and may prohibit the transfer, transportation, sale or purchase of any intoxicating liquor within the area of the municipality described in the proclamation. The prohibition, if imposed, may apply to transfers of intoxicating

liquor by employees of alcoholic beverage control stores as well as by anyone else within the geographic area described.
(Ord. No. 1738, § 4, 9-22-81)

Sec. 11-36. Restrictions on possession, transportation and transfer of dangerous weapons and substances.

(a) The proclamation may prohibit the transportation or possession off one's own premises or the sale or purchase of any dangerous weapon or substance. The mayor may exempt from some or all of the restrictions classes of people whose possession, transfer or transportation of certain dangerous weapons or substances is necessary to the preservation of the public health, safety or welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

(b) "Dangerous weapon or substance" means:

- (1) Any deadly weapon, ammunition, incendiary device, explosive, gasoline or other instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property.
- (2) Any other instrument or substance that is capable of being used to inflict serious bodily injury or destruction of property, when the circumstances indicate that there is some probability that such instrument or substance will be so destructively used;
- (3) Any part or ingredient in any instrument or substance included above.

(c) If imposed, the restrictions shall apply throughout the jurisdiction of the municipality or such part thereof as designated in the proclamation.

(Ord. No. 1738, § 5, 9-22-81)

Sec. 11-37. Restrictions on access to areas—Generally.

(a) The proclamation may prohibit obtaining access or attempting to obtain access to any area, designated in the manner described in this

section, in violation of any order, clearly posted notice or barricade indicating that access is denied or restricted.

(b) Areas to which access is denied or restricted shall be designated by the chief of police and his subordinates when directed in the proclamation to do so by the mayor. When acting under this authority, the chief of police and his subordinates may restrict or deny access to any area, street, highway or location within the municipality if that restriction or denial of access or use is reasonably necessary to promote efforts being made to overcome the emergency or to prevent further aggravation of the emergency.

(Ord. No. 1738, § 6, 9-22-81)

Sec. 11-38. Same—Activities.

The proclamation may prohibit or restrict:

- (1) Movements of people in public places;
- (2) The operation of offices, business establishments and other places to or from which people may travel or at which they may congregate; and
- (3) Other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency, within the area designated in the proclamation.

(Ord. No. 1738, § 7, 9-22-81)

Sec. 11-39. Amendments of the proclamation.

The mayor may amend or extend the proclamation from time to time, making such modifications as he would have been authorized to include in the original proclamation. The proclamation shall expire five (5) days after its last imposition unless sooner terminated.

(Ord. No. 1738, § 8, 9-2-81)

Sec. 11-40. Removal of prohibitions and restrictions.

The mayor shall by proclamation remove the prohibitions and restrictions as the emergency no longer requires them, or when directed to do so by the town council.

(Ord. No. 1738, § 9, 9-22-81)

Sec. 11-41. Separate and superseding proclamations.

The mayor in his discretion may invoke the restrictions authorized by this article in separate proclamations, and may amend any proclamation by means of a superseding proclamation. (Ord. No. 1738, § 10, 9-22-81)

Sec. 11-42. Absence or disability of mayor.

In case of the absence or disability of the mayor, the vice-chairman of the town council, or such other person as may be designated by the town council, shall have and exercise all of the powers herein given the mayor.

State law reference—Violation of ordinances constitutes a misdemeanor punishable by a fine not exceeding \$50.00 or imprisonment for not exceeding 30 days, G.S., § 14-4.

Sec. 11-43. Penalty for violation.

Any person violating any prohibition or restriction imposed by a proclamation authorized by this article shall be guilty of a misdemeanor, punishable as a misdemeanor with a maximum fine of one hundred dollars (\$100.00). (Ord. No. 1738, § 12, 9-22-81; Ord. No. (2022)5091, § 1, 1-3-22)

Secs. 11-44—11-49. Reserved.

ARTICLE III. GRAFFITI

Sec. 11-50. Graffiti prohibited.

(a) The application of graffiti and the failure of the affected property's occupant or owner to remove graffiti promptly, are prohibited.

(b) Graffiti shall be removed by the perpetrator, where possible, or by the property occupant or owner, as set forth in this article, where the perpetrator fails to remove it. (Ord. No. 3381, § 1, 2-21-06; Ord. No. 3387, § 1, 3-6-06)

Sec. 11-51. Definitions.

(a) "*Graffiti*" means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or

otherwise affixed to any surface of public or private real property by any means, other than by use of chalk, or any such defacement, irrespective of whether authorized by the owner, which is found to be a public nuisance by the town council of the Town of Garner or its designee.

(b) "*Property contact person*" means the person, including an individual, firm, partnership or corporation, and their agents or employees, who has the authority to maintain the affected real property, whether it is the occupant owner, occupant or managing agent.

(c) "*Remove graffiti*" means to clean and/or paint over the graffiti, including any repairs to a structure's cladding reasonably required to complete the removal.

(d) "*Graffiti removal notice*" means the notice given to the property contact person of the requirements of this article, the right to petition for relief, and the abatement conference.

(e) "*Town removal*" means removal by the town, or by a contractor hired by the town, or by town-supervised volunteers, or by a combination thereof, either with consent or under the town's powers to abate a nuisance.

(f) "*Consent*" means written consent by the property owner, or by a person with authority from the owner, to town removal, including agreement to pay the fee and costs and waiver of liability.

(g) "*Business day*" means 8:00 a.m. to 5:00 p.m. any day, excluding Saturday, Sunday, or holidays when the Town Hall is open.

(h) "*Abatement conference*" means the conference to be scheduled, if necessary, if the graffiti is not removed and owner does not consent to town removal, and/or the property contact person seeks relief from the graffiti removal notice. (Ord. No. 3381, § 1, 2-21-06; Ord. No. 3387, § 1, 3-6-06)

Sec. 11-52. Timely removal of graffiti.

(a) Any person applying graffiti on public or private property shall remove the graffiti within twenty-four (24) hours after notice by the police or other town officials, or by the property contact

person. Any person applying graffiti shall be responsible for the costs of the removal. Where graffiti is applied by an unemancipated minor, the parents or legal guardian shall also be responsible for such removal and/or for payment of the costs of the removal.

(b) When graffiti on real property has not been removed by the perpetrator, it shall be the duty of the property contact person to take all appropriate and reasonable steps necessary to remove the graffiti by the end of the third business day after the incident report, unless an extension of time or other relief from this article has been granted.

(c) Graffiti removal shall be done in a manner acceptable to the chief of police, the director of the department of public works, or other designee of the town manager.

(Ord. No. 3381, § 1, 2-21-06; Ord. No. 3387, § 1, 3-6-06)

Sec. 11-53. Notice of removal.

(a) Written notice shall be given to a property contact person at the earliest time practicable after the initial crime investigation, advising of the benefits to the property itself and to the community of removing the graffiti within twenty-four (24) to forty-eight (48) hours, identifying the address of the property, with a brief description of the graffiti, and further advising of the requirements of this article.

(b) The written notice shall be delivered to the occupant or managing agent or left for the occupant or managing agent at the property under circumstances likely for it to be received by such person, and if the owner is a different person, delivered or mailed to the owner at the owner's address as listed in town records or in the Wake County Tax Office.

(Ord. No. 3381, § 1, 2-21-06; Ord. No. 3387, § 1, 3-6-06)

Sec. 11-54. Removal by town.

(a) If the property occupant or owner fails to remove the graffiti sufficiently by the end of the third day which is a business day following the giving of written notice, the town may undertake

to remove the graffiti on a schedule consistent with town operations and the owner shall be responsible for the fees and costs.

(b) If the graffiti is not removed by the end of the day described above, there will be a follow-up site investigation, to consider whether the graffiti constitutes a nuisance, whether the occupant, owner or managing agent has failed to remove the graffiti, whether there are just grounds for an extension of time or other relief from the article, whether the town should remove the graffiti and the terms under which the town will proceed with abatement by the town at the expense of the occupant or owner, and if necessary an abatement conference will be scheduled.

(c) The town will seek to obtain the consent of the property occupant or owner, as appropriate, before undertaking the removal, including an agreement for payment of the costs and administrative fee, and a release from claims arising out of the removal. Upon receipt of the executed consent, in a form acceptable to the town, the town may proceed with the graffiti removal.

(d) If the property occupant or owner fails to remove the graffiti within the time specified by this article, or as extended, or by the date and time of the abatement conference, or fails to consent to town removal, and/or refuses consent for entry upon the property by the town or its contractor on terms acceptable to the town and consistent with the terms of this article, the town may undertake the abatement and charge the costs thereof, and as necessary, commence a judicial action for abatement and cost recovery.

(e) The town shall be authorized to use public funds for the removal of the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive an area than that where the graffiti is located, unless the town manager, or the designee of the town manager, determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, or unless the property owner agrees to pay for the costs of repainting or repairing the more extensive area.

(f) If an abatement conference is not necessary, the administrative fee for town removal shall be two hundred fifty dollars (\$250.00); if an abatement conference is necessary, the administrative fee shall be five hundred dollars (\$500.00). (Ord. No. 3381, § 1, 2-21-06; Ord. No. 3387, § 1, 3-6-06)

Sec. 11-55. Petition for relief.

The occupant or owner may petition the town for an extension of time or other relief from this article where appropriate, based on a claim of lack of legal capacity to undertake acts of property maintenance, lack of financial capacity, and any other circumstances which make an extension of time or other relief appropriate, with the petition for relief to be determined by the official holding the abatement conference based on and whether the public interest in removing the graffiti and the timeliness of removal outweighs the factors proposed as grounds for relief.

(Ord. No. 3381, § 1, 2-21-06; Ord. No. 3387, § 1, 3-6-06)

Sec. 11-56. Abatement conference.

(a) The official conducting the abatement conference shall determine (i) which party (managing agent, occupant or owner) has the capacity to remove the graffiti and be responsible for the costs and fee, (ii) the current mailing and telephone addresses for the property contact person and the owner, (iii) whether the graffiti has been sufficiently removed, and/or whether the graffiti removal is in process, (iv) whether the property contact person has a plan for removal, (v) whether the deadline should be extended, (vi) whether there is a financial hardship or other factors which render timely removal of the graffiti impracticable, (vii) whether the graffiti constitutes a nuisance which the town should abate, and (viii) any other related issues raised by the parties in the petition for relief or at the hearing.

(b) Abatement conference, the official conducting the hearing shall proceed to make findings from the documents and facts available.

(c) If the official conducting the abatement conference orders in writing that the graffiti should be abated as a nuisance, a copy of that order shall be mailed to the property contact person and to the property owner, if the owner is different from the contact person, at their last known addresses, together with a second request that the property contact person consent to the town undertaking the removal.

(d) The occupant or owner may proceed and/or continue with private removal at any time during the foregoing administrative process.

(Ord. No. 3381, § 1, 2-21-06; Ord. No. 3387, § 1, 3-6-06)

Sec. 11-57. Enforcement.

(a) The failure of any person required to do so to remove graffiti shall constitute a violation of this article, punishable by a civil penalty as set forth in section 1-8 of the Town Code.

(b) Alternatively, the existence of graffiti on public or private real property in violation of this article is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified in this article and in chapter 6.

(Ord. No. 3381, § 1, 2-21-06; Ord. No. 3387, § 1, 3-6-06; Ord. No. (2022)5091, § 1, 1-3-22)

Chapter 12

PARKS AND RECREATION*

Article I. In General

Secs. 12-1—12-20. Reserved.

Article II. Administration

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| Sec. 12-21. | Definitions. |
| Sec. 12-22. | Department of parks recreation and cultural resources—Generally. |
| Sec. 12-23. | Same—Director—Administrative head. |
| Sec. 12-24. | Same—Same—Powers and responsibilities. |
| Sec. 12-25. | Advisory committee—Continued. |
| Sec. 12-26. | Same—Appointment and tenure of members. |
| Sec. 12-27. | Same—Powers and responsibilities. |

***Editor's note**—Section 8 of Ord. No. 1706, enacted Feb. 17, 1981, repealed Ch. 12, §§ 12-1, 12-2, 12-14—12-16, 12-23—12-29, 12-41—12-49, 12-61—12-64 and 12-76—12-78, relative to parks and recreation. Said provisions formerly derived from Ord. No. 1173, Arts. I—VI, enacted March 19, 1968.

At the editor's discretion, §§ 1—7 of Ord. No. 1706 have been codified as a new Ch. 12, Art. II, §§ 12-21—12-27. Certain subsections have been redesignated as their alpha-numeric equivalent in order to maintain Code format.

Cross reference—Recreation in subdivisions, App. A, § XIII.

ARTICLE I. IN GENERAL

Secs. 12-1—12-20. Reserved.

ARTICLE II. ADMINISTRATION

Sec. 12-21. Definitions.

Unless the context indicates otherwise, the following words and phrases shall, when used in this article, have the following meanings:

Citizen shall mean a resident of the Town of Garner.

Committee shall mean the advisory committee of the department of parks recreation and cultural resources.

Department shall mean the department of parks recreation and cultural resources of the town.

Director shall mean the director of the department of parks recreation and cultural resources.

Recreation shall mean activities that are diversionary in character and aid in promoting entertainment, pleasure, relaxation, instruction and other physical, mental and cultural development and leisure time experience.

Recreation facilities shall mean parks, playgrounds, recreation centers, water areas, athletic fields and all lands, buildings, structures, equipment and other property provided for recreation by the town, whether or not owned by the town and whether in or out of the town. (Ord. No. 1706, § 1, 2-17-81; Ord. No. 3716, § 5, 11-19-13; Ord. No. (2022)5111, § 1, 8-1-22)

Sec. 12-22. Department of parks recreation and cultural resources—Generally.

There shall be a line department of the town, to be known as the parks recreation and cultural resources, which shall function under the supervision of the town manager. (Ord. No. 1706, § 2, 2-17-71; Ord. No. 3716, § 5, 11-19-13)

Editor's note—Ord. No. 3716, § 5, adopted Nov. 19, 2013, changed the title of § 12-22 from "Department of parks and recreation—Generally" to read as herein set out.

Sec. 12-23. Same—Director—Administrative head.

There shall be an administrative head of the department who shall be the director of parks recreation and cultural resources. (Ord. No. 1706, § 3, 2-17-81; Ord. No. 3716, § 5, 11-19-13)

Sec. 12-24. Same—Same—Powers and responsibilities.

The department and the director shall have the following powers and responsibilities:

- (a) To maintain the recreation facilities of the town and to supervise their use;
- (b) To plan, conduct and supervise wholesome forms and programs of recreation in, on or about the recreation facilities of the town;
- (c) To formulate regulations and rules regarding the use of the recreation facilities of the town and to establish a schedule of fees and charges for the use of such facilities, subject to council approval;
- (d) To maintain, review and keep current a long-range plan of parks and recreation facilities and programs for the town and to make recommendations to the town manager and the town council, as may be appropriate, with regard to the acquisition, use and disposal of recreation facilities and the initiation, operation and discontinuance of recreation programs consistent with such long-range plan;
- (e) For the purpose of expanding the recreation opportunities of the citizens of the town, to aid and assist agencies and civic, neighborhood and service groups, when feasible with regard to the resources of the department, in their recreation needs and programs, whether or not such agencies and groups are private, quasi-public or public, including those which, although public in nature, are not a part of the town government, such as schools, churches, hospitals, orphanages and military installations;

(f) To render such periodic and special planning, activity and financial reports to the advisory committee, the town manager and the town council as the town manager may require;

(g) To consult with and make recommendations to the town manager and the town council, as may be appropriate, with regard to the establishment or operation of any joint parks and recreation system involving the town by joint agency or contract under General Statutes, Chapter 160A, Article 20, Part 1.

(Ord. No. 1706, § 4, 2-17-81)

Sec. 12-25. Advisory committee— Continued.

There shall be an advisory committee of the department made up of at least nine (9) citizens of the town. The committee as it now exists and is now constituted shall continue, subject to the provisions of this article, and the present members of the committee shall continue in office until the completion of their terms and until their successors are appointed and qualified.

(Ord. No. 1706, § 5, 2-17-81; Ord. No. 3716, § 5, 11-19-13; Ord. No. (2022)5111, § 2, 8-1-22)

Sec. 12-26. Same—Appointment and tenure of members.

(a) Members of the committee shall be appointed by the town council from citizens of the town at large with reference to fitness for office.

(b) The term of each member of the committee shall be three (3) years and until his successor is appointed and qualified.

(c) Reserved.

(d) Any vacancy on the committee shall be filled immediately through appointment by the town council for the unexpired term of such member.

(e) The town council may remove a member of the committee at any time for incapacity, unfitness, misconduct or neglect of duty.

(f) Members of the committee shall serve without compensation.

(g) The committee shall elect one (1) of its members to serve as chairman, to serve for a period of one (1) year and until his successor is elected and takes office, without limitation as to successive terms. It may elect such other officers as it may deem necessary for like terms. Any officer except the chairman may be elected either from the membership of the committee or from employees of the department of parks and recreation.

(Ord. No. 1706, § 6, 2-17-81; Ord. No. (2022)5111, § 3, 8-1-22)

Sec. 12-27. Same—Powers and responsibilities.

The committee shall have the following advisory powers and responsibilities as may be appropriate:

(a) To adopt bylaws, policies, rules and procedures for the exercise of its powers and the performance of its responsibilities in accordance with the provisions of this article.

(b) To advise, consult with and make recommendations to the director, the town manager and the town council, as may be appropriate, on parks and recreation matters, including, but not limited to, the following:

(1) The acquisition, allocation and disposal of recreation facilities by the town;

(2) The maintenance and improvement of recreation facilities owned or controlled by the town;

(3) The long-range program of the development of recreation facilities of the town;

(4) The annual budget of the department;

(c) To recommend to the town council the acceptance of any gift, grant, lease, loan, bequest or devise of property for recreation purposes in accordance with the terms or

conditions under which such gift, grant, lease, loan, bequest or devise is made and accepted;

- (d) To advise, consult with and make recommendations to the director, the town manager and the town council, as appropriate, with regard to the establishment or operation of any joint park and recreation system by joint agency or contract, under General Statutes, Chapter 160A, Article 20, Part 1, involving the town;
- (e) To have the option to assign one (1) of its members to attend as may be appropriate meetings of the planning and zoning bodies of the town for the purpose of calling attention to town recreational needs and potentials in matters of planning, zoning, subdivision approval and annexation, and to make recommendations to the town council with regard to the findings and proposals of such bodies as recreational needs and potentials of the town would be affected;
- (f) To make recommendations to the town with regard to the appointment of committee members.

(Ord. No. 1706, § 7, 2-17-81; Ord. No. (2022)5111, § 4, 8-1-22)

Chapter 13

RESERVED*

***Editor's note**—Ord. No. 3716, § 6, adopted Nov. 19, 2013, repealed former Ch. 13, §§ 13-1—13-13, 13-15, 13-17, 13-19—13-34, which pertained to personnel rules and regulations. See the Code Comparative Table for a complete derivation.

Chapter 13.1

PLANNING*

Sec. 13.1-1. Planning.

***Editor's note**—Ord. No. 3716, § 7, adopted Nov. 19, 2013, repealed the former Ch. 13.1, §§ 13.1-16—13.1-20, and enacted a new Ch. 13.1 as set out herein. The former Ch. 13.1 pertained to similar subject matter and derived from Ord. No. 1280, §§ 1—5, adopted June 27, 1972; Ord. No. 1378, § 1, adopted Sept. 3, 1974; Ord. No. 1411, §§ 1, 2, adopted July 22, 1975.

Sec. 13.1-1. Planning.

Refer to the Town of Garner Unified Development Ordinance.

(Ord. No. 3716, § 7, 11-19-13)

Chapter 14

POLICE*

- Art. I. In General, §§ 14-1—14-15
- Art. II. Police Department, §§ 14-16—14-37
 - Div. 1. Generally, §§ 14-16—14-32
 - Div. 2. Auxiliary Policemen, §§ 14-33—14-37

*Cross reference—Motor vehicles and traffic, Ch. 10.

State law reference—Law enforcement, generally, G.S. § 160A-281 et seq.

ARTICLE I. IN GENERAL

Secs. 14-1—14-15. Reserved.

ARTICLE II. POLICE DEPARTMENT*

DIVISION 1. GENERALLY

Sec. 14-16. Composition.

The police department shall consist of a police chief and other officers and policemen as the town council or town manager may deem necessary for the effective operation of the department.
(Ord. No. 1034, § I(Art. 1), 6-8-60)

State law reference—Authority to appoint a chief of police and to employ other officers, G.S. § 160A-281.

Sec. 14-17. General duties.

The police department shall enforce all laws and ordinances of the town, state and United States and shall, at all times, preserve the peace, protect the property and the safety of the citizens of the town.
(Ord. No. 1034, § II(Art. 2), 6-8-60)

Sec. 14-18. Chief accountable to manager or council member; chief to make reports.

The chief of police shall be held accountable to the town manager or to the town council, and shall make written and verbal reports as the manager or council may require from time to time.
(Ord. No. 1034, § I(Art. 4), 6-8-60)

Sec. 14-19. Officers, policemen accountable to chief; duty to obey department regulations and carry out chief's directions.

All officers and policemen within the police department shall be accountable to the chief of police, shall obey the rules and regulations estab-

***Cross references**—Police department and police chief's responsibility relative to taxicabs, § 16-17 et seq.; policemen's responsibilities relative to weapons and explosives, § 18-1 et seq.

lished for the department, and shall carry out the instructions and directions of the chief regarding their duties, conduct, hours and activities.
(Ord. No. 1034, § I(Art. 5), 6-8-60)

Sec. 14-20. Chief authorized to recommend personnel regulations.

The chief of police may, from time to time, make written recommendations to the town manager or town council with respect to employment, discharge, suspension or removal of any officer and policeman for consideration by the town manager or town council.
(Ord. No. 1034, § I(Art. 5), 6-8-60)

Sec. 14-21. Chief to formulate department rules, regulations and submit same to council member or manager.

The chief of police shall formulate a set of rules and regulations to govern the police department and shall submit a copy thereof for approval and modifications to the town manager or town council.
(Ord. No. 1034, § II(Art. 1), 6-8-60)

Sec. 14-22. Chief responsible for morale of personnel, efficiency of department.

The chief of police shall be responsible to the town council or the town manager for the personnel morale and general efficiency of the police department.
(Ord. No. 1034, § II(Art. 1), 6-8-60)

Sec. 14-23. Reserved.

Editor's note—Ord. No. 2092, § 2, adopted July 7, 1986, provided for the deletion of § 14-23, which pertained to the responsibilities of the chief of police concerning traffic devices and regulations and was derived from Ord. No. 1034, § II(Art. 3), adopted June 8, 1960.

Sec. 14-24. Chief to report to council member or manager concerning police activities; duty to make special, voluntary reports.

The chief of police is charged with the duty of reporting to the town council or to the town

manager concerning the police department and its activities. The chief shall make special reports when requested, and shall make such voluntary reports as he deems necessary in the proper administration of his office and in the preservation of peace and law and order.

(Ord. No. 1034, § II(Art. 6), 6-8-60)

Sec. 14-25. Chief vested with authority given a sheriff including authority to deputize volunteers, etc.

The chief of police is vested with the authority given a sheriff within the town, including the authority to deputize special volunteer policemen whenever needed on special occasions, to make arrests, to preserve the peace and to protect the property and safety of the citizens of the town.

(Ord. No. 1034, § II(Art. 5), 6-8-60)

Sec. 14-26. Uniforms and equipment.

(a) The chief of police and all officers of the police department shall wear uniforms which shall be provided by the town. Such uniforms shall be kept in a neat and clean condition.

(b) If uniforms and other equipment have been furnished by the town to the chief and officers of the department, such uniforms and equipment shall be surrendered to the town upon leaving the police service of the town.

(c) All equipment furnished to the chief and officers of the department shall be used only in the line of duty and training.

(Ord. No. 1034, § III(Art. 1), 6-8-60)

Secs. 14-27—14-32. Reserved.

DIVISION 2. AUXILIARY POLICEMEN*

Sec. 14-33. Authority to establish, maintain auxiliary force.

The chief of police is hereby authorized to establish and maintain a volunteer organization of auxiliary policemen.

(Ord. No. 1183, § 1(5), 6-3-68)

*State law reference—Auxiliary police, G.S. § 160A-282.

Sec. 14-34. Oath.

Auxiliary policemen shall take and subscribe the oath required by General Statutes, Section 160A-284.

(Ord. No. 1183, § 1(7), 6-3-68)

Sec. 14-35. When policemen to be called to active duty; when policemen subject to call; powers, duties when on duty.

(a) Auxiliary policemen shall be called to active duty for emergencies or on special occasions when regular police officers require their assistance, and they shall be subject to call by the chief of police for training at other times.

(b) When on active duty, auxiliary policemen shall be clothed with all power and charged with all the duties of a regular policeman of the town, and shall be subject to the orders and directions of the chief of police.

(Ord. No. 1183, § 1(5), (6), 6-3-68)

State law reference—Powers, privileges and immunities afforded auxiliary policemen, G.S. § 160A-282.

Sec. 14-36. Compensation.

Auxiliary policemen shall receive no compensation from the town, except such compensation as the town council may fix for them to be paid while on active duty.

(Ord. No. 1183, § 1(8), 6-3-68)

Sec. 14-37. Covered by workmen's compensation.

Auxiliary policemen shall be covered by the provisions of the North Carolina Workmen's Compensation Act if injured during the performance of any of their duties during active duty.

(Ord. No. 1183, § 1(8), 6-3-68)

State law reference—For similar provisions, see G.S. § 160A-282.

Chapter 15

STREETS AND SIDEWALKS*

Article I. In General

Secs. 15-1—15-15. Reserved.

Article II. Excavations and Obstructions Generally

Sec. 15-16. Ordinances not affected by Code.

Secs. 15-17—15-27. Reserved.

Article III. Sight Obstructions at Intersections

Sec. 15-28. Obstruction of view at intersection a nuisance.

Sec. 15-29. Notice to abate; authority of police chief upon failure to abate.

Sec. 15-30. Failure to abate nuisance upon notice to constitute an offense.

Secs. 15-31—15-41. Reserved.

Article IV. Improvements

Sec. 15-42. Ordinances not affected by Code.

Secs. 15-43—15-53. Reserved.

Article V. Sidewalk Construction

Sec. 15-54. Duty of manager upon receipt of application requesting construction of sidewalk.

Sec. 15-55. Contents of application.

Sec. 15-56. Applicants to deposit pro rata share of costs; failure to deposit grounds for cancellation of approval.

Sec. 15-57. Clerk to notify director of public works of deposits; director to supervise construction.

Sec. 15-58. Construction by private individual; director of public works to supervise.

Secs. 15-59—15-69. Reserved.

Article VI. Standards and Specifications

Sec. 15-70. Ordinances not affected by Code.

Sec. 15-71. Driveway entrance regulations adopted.

Sec. 15-72. Installation of drainage pipe.

Secs. 15-73—15-83. Reserved.

Article VII. Parades, Picket Lines and Demonstrations

Sec. 15-84. Definitions.

Sec. 15-85. Activities exempt from this article.

Sec. 15-86. Permit required.

Sec. 15-87. Application for permit; issuance or denial; terms and conditions.

Sec. 15-88. Prohibited conduct.

***Charter references**—Establishment of proposed street lines, § 5.2; cleaning and repair of sidewalks, § 5.7.

Cross references—Street and sidewalk defined, § 1-2; animals at large, § 3-14; posting of outdoor advertising on streets, § 11-7.

State law reference—Authority for town to establish and control streets, G.S. § 160A-296.

GARNER CODE

- Sec. 15-89. Revocation of permit; grounds.
- Sec. 15-90. Additional restrictions on picketing.
- Sec. 15-91. Interference with parades, picket lines and demonstrations.

ARTICLE I. IN GENERAL

Secs. 15-1—15-15. Reserved.

ARTICLE II. EXCAVATIONS AND OBSTRUCTIONS GENERALLY***Sec. 15-16. Ordinances not affected by Code.**

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance, regulating or prohibiting street and sidewalk excavations and obstructions, and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Secs. 15-17—15-27. Reserved.

ARTICLE III. SIGHT OBSTRUCTIONS AT INTERSECTIONS†**Sec. 15-28. Obstruction of view at intersection a nuisance.**

It is hereby declared to be a public nuisance for any person owning or having the legal control of any land within the corporate limits of the town to maintain or permit upon any such land any fence, sign, billboard, shrubbery, bush, tree, mailbox or other object, or any combination thereof, which obstructs the view of motorists using any street, private driveway or approach to any street intersection adjacent to and abutting such land so as to constitute a traffic hazard or a condition dangerous to the public safety upon any such street, private driveway or at any such street intersection adjacent thereto.
(Ord. No. 1002, § 1(10)(A), 4-6-59)

***State law reference**—Authority to regulate, license or prohibit digging in streets and sidewalks, G.S. § 160A-296.

†**Cross reference**—Noxious weeds, grass and similar nuisances, § 6-16 et seq.

Sec. 15-29. Notice to abate; authority of police chief upon failure to abate.

If the chief of police, after investigation, shall determine that any person is maintaining or permitting any public nuisance defined in this article, it shall be the duty of the chief to cause to be served upon such person a written notice to remove, destroy or otherwise eliminate the condition or conditions constituting such public nuisance. If within ten (10) days after such notice has been given the public nuisance has not been eliminated, the chief of police shall take appropriate action to abate such nuisance in accordance with law. He may also cause a warrant to be issued and the person responsible for the maintenance of such public nuisance to be prosecuted according to law.
(Ord. No. 1002, § 1(10)(B), 4-6-59)

Sec. 15-30. Failure to abate nuisance upon notice to constitute an offense.

Any person who shall maintain or permit any such public nuisance as defined in this article and who shall fail, refuse or neglect to remove, destroy or otherwise eliminate such condition or conditions constituting the public nuisance within a period of ten (10) days after written notice to do so from the chief of police shall be guilty of a misdemeanor with a maximum fine of one hundred dollars (\$100.00).
(Ord. No. 1002, § 1(10)(A), 4-6-59; Ord. No. (2022)5091, § 1, 1-3-22)

Secs. 15-31—15-41. Reserved.

ARTICLE IV. IMPROVEMENTS*

Sec. 15-42. Ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance pertaining to street, sidewalk and drainage improvements, whether of a general or specific nature, and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Secs. 15-43—15-53. Reserved.

ARTICLE V. SIDEWALK CONSTRUCTION

Sec. 15-54. Duty of manager upon receipt of application requesting construction of sidewalk.

Upon receipt of an application of the adjacent owners of property facing upon any street in the town asking that a sidewalk be constructed, the town manager shall cause the application to be investigated and a report made to the town council.

(Ord. of 9-23-57, § 1)

Sec. 15-55. Contents of application.

The application for the construction of sidewalks shall state the area for requested sidewalk construction, shall be signed by those persons owning property adjacent thereto, and shall contain a statement that the owners will pay not less than fifty (50) percent of the costs of the construction.

(Ord. of 9-23-57, § 2)

Sec. 15-56. Applicants to deposit pro rata share of costs; failure to deposit grounds for cancellation of approval.

Upon the approval of an application for sidewalk construction by the town council, those

***Charter reference**—Assessments for street improvements, § 5.1.

Cross reference—Street and sidewalk improvements in subdivisions, App. A, § XII (4.1, 4.2).

State law reference—Special assessments, generally, G.S. § 160A-216 et seq.

persons requesting the proposed sidewalk construction shall each deposit with the clerk of the town their pro rata share of the cost of the proposed sidewalk construction. Unless all funds are paid in full by the applicants within ninety (90) days from the approval of the application, the approval may be canceled.

(Ord. of 9-23-57, § 3)

Sec. 15-57. Clerk to notify director of public works of deposits; director to supervise construction.

When all property owners have paid in full their pro rata share for the construction of sidewalks, the clerk shall notify the director of public works who shall supervise the construction of the sidewalk.

(Ord. of 9-23-57, § 4)

Sec. 15-58. Construction by private individual; director of public works to supervise.

Any person who desires to construct a sidewalk along any street in the town shall obtain the consent of the governing board, and the construction of such sidewalk shall be under the supervision of the director of public works.

(Ord. of 9-23-57, § 5)

Secs. 15-59—15-69. Reserved.

ARTICLE VI. STANDARDS AND SPECIFICATIONS†

Sec. 15-70. Ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance providing standards and specifications for street and sidewalk construction and repair, and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

†**Cross reference**—Standards and specifications of streets in subdivisions, App. A, § XIV.

Sec. 15-71. Driveway entrance regulations adopted.

The "Manual on Driveway Entrance Regulations" adopted by the state highway commission on the tenth day of January, 1966, and published by said commission, of which manual not less than three (3) copies are on file in the office of the town clerk, is hereby adopted by reference as fully as though set forth herein as the official minimum standards for driveway entrances to streets of the town.

(Res. of 10-6-69)

Sec. 15-72. Installation of drainage pipe.

(a) It shall be unlawful for any person to install any drainage pipe of less than twelve (12) inches in diameter beneath any driveway or street connecting any private property with any public street.

(b) Any violation of this section shall be punishable as a misdemeanor by a fine of not more than one hundred dollars (\$100.00) nor more than thirty (30) days' imprisonment, and each day a pipe not installed in conformity with this section is permitted to remain beneath any driveway or street connecting any private property with any public street shall be deemed a distinct and separate violation of this section.

(Ord. of 7-2-51; Ord. No. (2022)5091, § 1, 1-3-22)

Secs. 15-73—15-83. Reserved.

ARTICLE VII. PARADES, PICKET LINES AND DEMONSTRATIONS

Sec. 15-84. Definitions.

For the purpose of this article, the following terms shall have the definitions ascribed to them in this section:

Block shall mean that portion of any street lying between its intersections with other streets.

Group demonstration shall mean any assembling together or concert of action between or among ten (10) or more persons for the purpose of protesting any matter or of making known any position or promotion of such persons

or of or on behalf of any organization or class of persons or for the purpose of attracting attention to such assembly.

Parade shall mean any parade, march, ceremony, show, exhibition or procession between or among ten (10) or more persons in or upon the public streets, sidewalks, alleys, parks or other public grounds or places.

Picket line shall mean any ten (10) or more persons formed together for the purpose of making known any position or promotion of such persons or of or on behalf of any organization or class of persons.

(Ord. No. 1006, § 23, 4-6-59; Ord. No. 1178, § 1, 4-5-68; Ord. No. (2019)3995, 9-3-19)

Sec. 15-85. Activities exempt from this article.

The provisions of this article shall not apply to:

- (1) Funeral processions;
- (2) Students going to or from school classes or participating in educational or recreational activity where such activity is under the supervision and direction of proper school authorities;
- (3) Any governmental agency acting within the scope of its functions;
- (4) Town-sponsored parade events such as the Christmas Parade.

(Ord. No. 1006, § 23, 4-6-59; Ord. No. 1178, § 8, 4-5-68; Ord. No. (2019)3995, 9-3-19)

Sec. 15-86. Permit required.

It shall be unlawful for any person to organize, conduct or participate in any parade, picket line or group demonstration in or upon any street, sidewalk, alley or other public place within the town where a permit is required unless a permit therefor has been issued by the town in accordance with the provisions of this article.

(Ord. No. 1006, § 23, 4-6-59; Ord. No. 1178, § 2, 4-5-68; Ord. No. (2019)3995, 9-3-19)

Sec. 15-87. Application for permit; issuance or denial; terms and conditions.

The chief of police or his designee is authorized to issue permits as required by this article, and in the issuance thereof he shall:

- (1) Require a written application for a permit to be filed not less than twenty-four (24) hours in advance of such parade, picket line or group demonstration. Such application shall be on a form prescribed by the chief; shall require the application to be signed by the applicant or applicants; shall require that the applicant show the proposed time, place, purpose and size of such parade, picket line or group demonstration and whether or not any minors below the age of eighteen (18) years shall participate.
- (2) Refuse to issue such permit when the activity or purpose stated in the application would violate any ordinance of the town or statute of the state, or when the activity or purpose would constitute a clear and present danger to the public health or safety or would hinder or prevent the orderly movement of pedestrian or vehicular traffic on the streets, alleys or sidewalks.
- (3) Specify in the permit whether or not minors below the age of eighteen (18) years will be permitted to participate. The chief shall pass upon whether or not such minors may participate, and shall base his determination upon whether or not the purpose or time or place of the particular activity will be detrimental to or endanger the health, safety or welfare of such minors or will interfere with their education.
- (4) Require that the application for a permit shall specify and the permit shall designate the person or persons in charge of the activity. Such person shall be required to accompany the parade, picket line or group demonstration and shall

carry such permit with him at that time. Such permit shall not be valid in the possession of any other person.

- (5) Specify in the permit the starting time, duration, speed of travel and space between persons or vehicles in the parade, picket line or group demonstration; may prescribe the portions or areas of streets, alleys, sidewalks or other public places to be used; and may impose such other reasonable requirements as the chief may prescribe for the control and free movement of pedestrian or vehicular traffic, or for the health, safety and property rights of the participants and the general public.
- (6) Among other considerations, consider and find as a requisite to issuance the following:
 - a. The activity will not interfere with the right of property owners in the area to enjoy peaceful and lawful occupancy and use of their property;
 - b. The activity can be conducted without unreasonable interference with normal pedestrian or vehicular traffic in the area; will not obstruct normal police and fire protection to the public; and will not be likely to cause injury to persons or property or to provoke disorderly conduct or to create a public disturbance.

(Ord. No. 1006, § 23, 4-6-59; Ord. No. 1178, § 3, 4-5-68; Ord. No. (2019)3995, 9-3-19)

Sec. 15-88. Prohibited conduct.

The following acts or activities, when performed or undertaken in conjunction with or as a part of any parade, picket line or group demonstration, or by a "small group" exemption from the permit requirements are hereby prohibited and declared unlawful, and are punishable as a Class 2 misdemeanor with a maximum fine of one hundred dollars (\$100.00):

- (1) The carrying on or about the person of any firearm, or any weapon or article, including, but not limited to, blackjacks, nightsticks or flashlights, which by their use might constitute a deadly weapon.

- (2) The taking or keeping of any dog or other vicious animal, whether leashed or unleashed.
- (Ord. No. 1006, § 23, 4-6-59; Ord. No. 1178, § 4, 4-5-68; Ord. No. (2019)3995, 9-3-19; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 15-89. Revocation of permit; grounds.

The chief of police shall revoke any permit granted for a parade, picket line or group demonstration for any of the following causes:

- (1) The violation by any participant of section 15-88.
 - (2) The failure to comply with the terms and conditions of the permit.
- (Ord. No. 1006, § 23, 4-6-59; Ord. No. 1178, § 5, 4-5-68; Ord. No. (2019)3995, 9-3-19)

Sec. 15-90. Additional restrictions on picketing.

Picket lines and picketing shall be subject to the following additional regulations:

- (1) Picketing may be conducted only on the sidewalks reserved for pedestrian movement, and may not be conducted on the portion of a street used primarily for vehicular traffic.
- (2) Not more than ten (10) pickets promoting the same objective shall be permitted to use either of the two (2) sidewalks within a single block at any one (1) time.
- (3) Pickets may carry written or printed placards or signs not exceeding two (2) feet in width and two (2) feet in length promoting the objective for which the picketing is done; provided, that the words used are not derogatory or defamatory in nature.
- (4) Pickets must march in single file and not abreast and not march closer together than fifteen (15) feet, except in passing one another. Pickets shall not be allowed to walk more than five (5) feet from the curbline and shall be in continuous motion.
- (5) If pickets promoting different objectives desire to use the same sidewalk for picket-

ing and such use would result in the presence of more than ten (10) pickets thereon, the chief of police shall allot time to each group of pickets for the use of such sidewalk on an equitable basis.

(Ord. No. 1006, § 23, 4-6-59; Ord. No. 1178, § 7, 4-5-68; Ord. No. (2019)3995, 9-3-19)

Sec. 15-91. Interference with parades, picket lines and demonstrations.

No person shall hamper, obstruct, impede or interfere with any parade, picket line or group demonstration being conducted under authority of a permit duly issued by the chief of police. The violation of this section shall be punishable as a Class 2 misdemeanor with a maximum fine of one hundred dollars (\$100.00).

(Ord. No. 1006, § 23, 4-6-59; Ord. No. 1178, § 6, 4-5-68; Ord. No. (2019)3995, 9-3-19; Ord. No. (2022)5091, § 1, 1-3-22)

Chapter 16

VEHICLES FOR HIRE*

Article I. In General

Secs. 16-1—16-15. Reserved.

Article II. Taxicabs

Division 1. Generally

- Sec. 16-16. Definitions.
- Sec. 16-17. Enforcement.
- Sec. 16-18. Accidents to be reported.
- Sec. 16-19. Duty to provide taxicab service; penalty upon failure to give service.
- Sec. 16-20. Holders to keep records, data available for examination.
- Sec. 16-21. Holders to keep records of receipts, expenditures, etc.
- Sec. 16-22. Reserved.
- Sec. 16-23. Holders to file copies of service contracts; penalty.
- Sec. 16-24. Vehicles to be examined, inspected, found to be in compliance with rules and regulations and inspected prior to use.
- Sec. 16-25. Semi-annual inspections.
- Sec. 16-26. Vehicles to be kept clean, sanitary.
- Sec. 16-27. Designation of taxicabs.
- Sec. 16-28. Minimum fees chargeable; unlawful to request excessive fees; notice to be posted.
- Sec. 16-29. Display of rate card, map required.
- Sec. 16-30. Manner of receiving, discharging passengers.
- Sec. 16-31. Restriction on number of passengers.
- Sec. 16-32. Engaging additional passengers.
- Sec. 16-33. Refusal to carry orderly passenger.
- Sec. 16-34. When driver to give receipt; contents of receipt.
- Sec. 16-35. Acceptable manner of solicitation of passengers.
- Sec. 16-36. Solicitation of passengers not to annoy or obstruct movement of persons.
- Sec. 16-37. Cruising in search of passengers.
- Sec. 16-38. Solicitation of other common carrier passengers.
- Sec. 16-39. Soliciting business for hotels, motels, houses of ill repute; selling liquors prohibited.
- Sec. 16-40. Forms for manifests; duty to furnish; character.
- Sec. 16-41. Driver to keep manifests; contents of manifests; duty to deliver manifests.
- Sec. 16-42. Holders to retain, preserve drivers' manifests; manifests to be available to police.
- Sec. 16-43. Advertising restricted.
- Sec. 16-44. Unlawful to hire taxicab with intent to defraud driver.
- Sec. 16-45. Unlawful to refuse to pay fare.
- Secs. 16-46—16-51. Reserved.

Division 2. Taxicab Company Authorization

- Sec. 16-52. Required.
- Sec. 16-53. Application for authorization—Where filed; to be verified; contents.
- Sec. 16-54. Same—Application review and public hearing; notice.

*Cross reference—Motor vehicles and traffic, Ch. 10.

GARNER CODE

- Secs. 16-55—16-57. Reserved.
- Sec. 16-58. Issuance and duration; renewal.
- Sec. 16-59. Transferability.
- Sec. 16-60. Suspension, revocation.
- Sec. 16-61. Limousines excepted from chapter provisions.
- Secs. 16-62—16-66. Reserved.

Division 3. Taxicab Driver's License

- Sec. 16-67. Required.
- Sec. 16-68. Where application filed; contents of application.
- Sec. 16-69. Application to be accompanied by copy of investigation of applicant, police record.
- Sec. 16-70. License fee to be paid upon filing application.
- Sec. 16-71. Police to investigate applicant for license.
- Sec. 16-72. Duty of the chief of police to approve or reject application; applicant authorized to appear before council upon rejection.
- Sec. 16-73. Reserved.
- Sec. 16-74. Issuance; contents; duration; renewal.
- Sec. 16-75. Drivers to comply with laws; failure to comply grounds for suspension; revocation of license.
- Sec. 16-76. Suspension, revocation generally.
- Sec. 16-77. To be posted.

ARTICLE I. IN GENERAL**Secs. 16-1—16-15. Reserved.****ARTICLE II. TAXICABS*****DIVISION 1. GENERALLY†****Sec. 16-16. Definitions.**

As used in this chapter, the following words and phrases shall have the meanings ascribed to them in this section.

Authorization means an authorization issued by the town authorizing the holder thereof to conduct a taxicab business in the town.

Cruising means the driving of a taxicab on the streets, alleys or public places of the town in search of or soliciting prospective passengers for hire.

Driver's license means the permission granted by the town to a person to drive a taxicab upon the streets of the town.

Holder means a person to whom a taxicab company authorization has been issued.

Limousine means a specialized type of taxicab, as defined herein, providing service to customers on an individualized basis and at individually negotiated rates.

Manifest means a daily record prepared by a taxicab driver or dispatcher of all trips made by each driver showing time and place of origin, destination, number of passengers and the amount of fare of each trip.

Rate card means a card for display in each taxicab which contains the rates of fare in force.

***Cross reference**—License and business regulations generally, Ch. 9.

State law reference—Authority to regulate taxis, G.S. § 160A-304.

†Editor's note—Section 2 of Ord. No. 3792, adopted Oct. 20, 2015, amended div. 1 in its entirety to read as herein set out. Former div. 1, §§ 16-16—16-45, pertained to similar subject matter, and derived from Ord. No. 1231, §§ 1, 19—29, adopted Dec. 7, 1970; Ord. No. 2144, § 1, adopted April 21, 1987; Ord. No. 2693, §§ 1, 2, adopted July 18, 1995; and Ord. No. 2964, § 1, adopted April 18, 2000.

Taxicab means a motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of not more than fifteen (15) passengers as prescribed by General Statutes, Section 62-260(a)(2), and not operated on a fixed route.

Waiting time means the time when a taxicab is not in motion from the time of acceptance of a passenger to the time of discharge, but does not include any time that the taxicab is not in motion if due to any cause other than the request, act or fault of a passenger.
(Ord. No. 3792, § 2, 10-20-15)

Sec. 16-17. Enforcement.

The police department is hereby given the authority and is instructed to watch and observe the conduct of holders and taxicab drivers operating under this article. Upon discovering a violation of the provisions of this article, the police department shall take appropriate action to address the violation as allowed by section 1-8 and North Carolina General Statutes.
(Ord. No. 3792, § 2, 10-20-15; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 16-18. Accidents to be reported.

All accidents arising from or in connection with the operation of taxicabs which result in death or injury to any person, or in damage to any vehicle, or to any property shall immediately be reported by the quickest means of communication to the police department.
(Ord. No. 3792, § 2, 10-20-15)

Sec. 16-19. Duty to provide taxicab service; penalty upon failure to give service.

(a) All persons engaged in the taxicab business in the town operating under the provisions of this article shall render an overall service to the public desiring to use taxicabs.

(b) Holders shall maintain a central place of business and keep the same open twenty-four (24) hours a day or during such hours of the day as shall be established and applied uniformly to all holders by the town council for the purpose of

receiving calls and dispatching cabs. They shall answer all calls received by them for services inside the corporate limits of Garner as soon as they can do so, and if such services cannot be rendered within a reasonable time, they shall then notify the prospective passengers how long it will be before the call can be answered and give the reason therefor.

(c) Any holder who shall refuse to accept a call anywhere in the corporate limits of Garner at any time when such holder has available cabs; or who shall fail or refuse to give overall service shall be deemed a violator of this article and the authorization granted to such holder shall be revoked at the discretion of the town council. (Ord. No. 3792, § 2, 10-20-15)

Sec. 16-20. Holders to keep records, data available for examination.

Every holder shall maintain the records and other data required by this article at a place readily accessible for examination by the town. (Ord. No. 3792, § 2, 10-20-15)

Sec. 16-21. Holders to keep records of receipts, expenditures, etc.

Every holder shall keep accurate records of receipts from operation, operating and other expenses, capital expenditures and such other operating information as may be required by the town. (Ord. No. 3792, § 2, 10-20-15)

Sec. 16-22. Reserved.

Sec. 16-23. Holders to file copies of service contracts; penalty.

It shall be mandatory for all holders to file with the police department copies of all contracts, agreements, arrangements, memoranda or other writings relating to the furnishing of taxicab service to any hotel, motel, theater, hall, public resort, airport, railway station or other place of public gathering, whether such arrangement is made with the holder or any corporation, firm or association with which the holder may be interested or connected. Failure to file such

copies prior to beginning service shall be sufficient cause for the revocation of the authorization of any offending holder. (Ord. No. 3792, § 2, 10-20-15)

Sec. 16-24. Vehicles to be examined, inspected, found to be in compliance with rules and regulations and inspected prior to use.

Prior to the use and operation of any vehicle under the provisions of this article, such vehicle shall be thoroughly examined and inspected by the police department and found to comply with such reasonable rules and regulations as may be prescribed by the town council. These rules and regulations shall be promulgated to provide safe transportation and shall specify such safety equipment and regulatory devices as the council shall deem necessary therefor. When the police department finds that a vehicle has met the standards established by the council, the department shall issue an inspection, which shall also state the authorized seating capacity of the vehicle. (Ord. No. 3792, § 2, 10-20-15)

Sec. 16-25. Semi-annual inspections.

Every vehicle operating under this article shall be inspected by the police department semi-annually in April and October to ensure the continued maintenance of the vehicle in a safe operating condition. Additional inspections may be required based on citizen complaints or police department observations of taxicab condition. (Ord. No. 3792, § 2, 10-20-15)

Sec. 16-26. Vehicles to be kept clean, sanitary.

Every vehicle operating under this article shall be kept in a clean and sanitary condition according to rules and regulations promulgated by the town council. (Ord. No. 3792, § 2, 10-20-15)

Sec. 16-27. Designation of taxicabs.

Each taxicab shall bear on the outside of each side of the vehicle, in painted letters not less than four (4) inches nor more than twelve (12)

inches in height, the name of the holder, and, in addition, may bear an identifying design approved by the town council. No vehicle covered by the terms of this article shall be licensed whose color scheme, identifying design, monogram or insignia to be used thereon shall, in the opinion of the council, conflict with or imitate any color scheme, identifying design, monogram or insignia used on a vehicle already operating under this article in such a manner as to be misleading or tend to deceive or defraud the public; and provided further, that if after a license has been issued for a taxicab hereunder, the color scheme, identifying design, monogram or insignia thereof is charged so as to be, in the opinion of the council, in conflict with or imitate any color scheme, identifying design, monogram or insignia used by any other person, owner or operator in such a manner as to be misleading or tend to deceive the public, the license of or authorization covering such taxicab shall be suspended or revoked. (Ord. No. 3792, § 2, 10-20-15)

Sec. 16-28. Minimum fees chargeable; unlawful to request excessive fees; notice to be posted.

(a) In accordance with authority granted to the municipality by General Statutes, Section 160A-304, the maximum fees which are chargeable by any licensed taxicab on the public streets to all points in Garner and within one (1) mile of the town limits are hereby fixed according to the following schedule:

Mileage rates: First one-eighth ($\frac{1}{8}$) mile (or fraction)	\$1.95
Each additional one-eighth ($\frac{1}{8}$) mile	25
Waiting time: Each one (1) minute (or fraction)	25

Extra charges if requested by passenger to assist in carrying packages to or from vehicle:

Hand bags in excess of one (1) per person	\$0.10
Foot lockers	50
Trunks	1.00

Large trunks requiring two (2) men	1.50
Grocery bags in excess of one (1) per person	10
Grocery in carton, boxes or crates under fifty (50) lbs.	10
Bulky items, over fifty (50) lbs. . .	50

(b) It shall be unlawful to charge or request payment of any amount in excess of the fees herein set out.

(c) Each operator of every taxicab is hereby required to post notice inside the vehicle where it will at all times be visible and easily read by passengers in same.

(Ord. No. 3792, § 2, 10-20-15)

Sec. 16-29. Display of rate card, map required.

Every taxicab operated under this article shall have a rate card setting forth the authorized rates and a map of the Town of Garner upon which the zones are clearly shown conspicuously displayed in such a place as to be in full view of all passengers occupying the rear seat of the taxicab.

(Ord. No. 3792, § 2, 10-20-15)

Sec. 16-30. Manner of receiving, discharging passengers.

Drivers of taxicabs shall not receive or discharge passengers in the roadway but shall pull up to the right-hand sidewalk as nearly as possible, or in the absence of a sidewalk to the extreme right-hand side of the road, and there receive or discharge passengers, except upon one-way streets, where passengers may be discharged at either the right-hand or left-hand sidewalk, or side of the roadway in the absence of a sidewalk.

(Ord. No. 3792, § 2, 10-20-15)

Sec. 16-31. Restriction on number of passengers.

No driver of a taxicab shall permit more persons to be carried in his taxicab as passengers than the rated seating capacity of his

taxicab as stated in the inspection for the vehicle. A child in arms shall not be counted as a passenger.
(Ord. No. 3792, § 2, 10-20-15)

Sec. 16-32. Engaging additional passengers.

No driver of a taxicab shall permit any other person to occupy or ride in his taxicab, unless the person first employing the taxicab shall consent to the acceptance of additional passengers.
(Ord. No. 3792, § 2, 10-20-15)

Sec. 16-33. Refusal to carry orderly passenger.

No driver of a taxicab shall refuse or neglect to convey any orderly person, upon request, unless previously engaged or unable or forbidden by the provisions of this article to do so.
(Ord. No. 3792, § 2, 10-20-15)

Sec. 16-34. When driver to give receipt; contents of receipt.

The driver of any taxicab shall, upon demand by the passenger, render to such passenger a receipt for the amount charged, either by a mechanically printed receipt or by a specially prepared receipt on which shall be the name of the owner, license number or motor number, amount of charge and date of transaction.
(Ord. No. 3792, § 2, 10-20-15)

Sec. 16-35. Acceptable manner of solicitation of passengers.

No driver of a taxicab shall solicit passengers for a taxicab, except when sitting in the driver's compartment of such taxicab or while standing immediately adjacent to the curbside thereof. The driver of any taxicab shall remain in the driver's compartment or immediately adjacent to his vehicle at all times when such vehicle is upon the public street, except that when necessary a driver may be absent from his taxicab for not more than ten (10) consecutive minutes, and provided further, that nothing herein contained

shall be held to prohibit any driver from alighting to the street or sidewalk for the purpose of assisting passengers into or out of such vehicle.
(Ord. No. 3792, § 2, 10-20-15)

Sec. 16-36. Solicitation of passengers not to annoy or obstruct movement of persons.

No driver of a taxicab shall solicit patronage in a loud or annoying tone of voice or by sign or in any manner annoy any person or obstruct the movement of any persons, or follow any person for the purpose of soliciting patronage.
(Ord. No. 3792, § 2, 10-20-15)

Sec. 16-37. Cruising in search of passengers.

No driver of a taxicab shall cruise in search of passengers, except in such areas and at such times as shall be designated by the town council. Such areas and times shall only be designated when the council finds that taxicab cruising would not congest traffic or be dangerous to pedestrians and other vehicles.
(Ord. No. 3792, § 2, 10-20-15)

Sec. 16-38. Solicitation of other common carrier passengers.

No driver, owner or operator of a taxicab shall solicit passengers or prospective passengers of any common carrier at the terminal of any common carrier, nor at any intermediate points along any established route of any common carrier.
(Ord. No. 3792, § 2, 10-20-15)

Sec. 16-39. Soliciting business for hotels, motels, houses of ill repute; selling liquors prohibited.

It shall be a violation of this article for any driver of a taxicab to solicit business for any hotel, or motel, or to attempt to divert patronage from one (1) hotel or motel to another. Neither shall such driver engage in selling intoxicating liquors or solicit business for any house of ill repute or use his vehicle for any purpose other than the transporting of passengers.
(Ord. No. 3792, § 2, 10-20-15)

Sec. 16-40. Forms for manifests; duty to furnish; character.

The forms for manifests required by section 16-41 shall be furnished to each driver of a taxicab by the dispatcher or holder and shall be of a character approved by the police department.

(Ord. No. 3792, § 2, 10-20-15)

Sec. 16-41. Driver to keep manifests; contents of manifests; duty to deliver manifests.

(a) Every driver of a taxicab, or the dispatcher for the holder, shall maintain a daily manifest upon which are recorded all trips made each day.

(b) The manifest shall show the time and place of origin and destination of each trip and amount of fare.

(c) All such completed manifests shall be delivered to the holder by the driver or dispatcher at the conclusion of the tour of duty of the driver or dispatcher.

(Ord. No. 3792, § 2, 10-20-15)

Sec. 16-42. Holders to retain, preserve drivers' manifests; manifests to be available to police.

Every holder shall retain and preserve all drivers' manifests in a safe place for at least the calendar year next preceding the current calendar year, and said manifests shall be available to the police department for inspection upon request.

(Ord. No. 3792, § 2, 10-20-15)

Sec. 16-43. Advertising restricted.

It shall be unlawful for any person owning or operating a taxicab to permit advertising matter to be affixed to or installed in or on such taxicab, except in accordance with the rules and regulations of the town council.

(Ord. No. 3792, § 2, 10-20-15)

Sec. 16-44. Unlawful to hire taxicab with intent to defraud driver.

It shall be unlawful for any person to hire any taxicab with the intent to defraud the person

from whom it is hired of the value of such service. A violation of this section is punishable as a misdemeanor with a maximum fine of one hundred dollars (\$100.00).

(Ord. No. 3792, § 2, 10-20-15; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 16-45. Unlawful to refuse to pay fare.

It shall be unlawful for any person to refuse to pay the legal fare of any taxicab after having hired the same. A violation of this section is punishable as a misdemeanor with a maximum fine of one hundred dollars (\$100.00).

(Ord. No. 3792, § 2, 10-20-15; Ord. No. (2022)5091, § 1, 1-3-22)

Secs. 16-46—16-51. Reserved.

**DIVISION 2. TAXICAB COMPANY
AUTHORIZATION***

Sec. 16-52. Required.

No person shall operate or permit a taxicab owned or controlled by him to be operated as a vehicle for hire upon the streets of the town without having first obtained an authorization from the police department.

(Ord. No. 3792, § 3, 10-20-15)

Sec. 16-53. Application for authorization—Where filed; to be verified; contents.

(a) An application for an authorization shall be filed with the police department upon forms provided by the town.

(b) An application for an authorization shall furnish the following information:

- (1) The name and address of the applicant;
- (2) The financial status of the applicant, including the amounts of all unpaid judg-

***Editor's note**—Section 3 of Ord. No. 3792, adopted Oct. 20, 2015, amended div. 2 in its entirety to read as herein set out. Former div. 2, §§ 16-52—16-61, pertained to certificate of public convenience and necessity, and derived from Ord. No. 1231, §§ 2—9, adopted Dec. 7, 1970; and Ord. No. 2144, § 3, adopted April 21, 1987.

ments against the applicant and the nature of the transactions or acts giving rise to the judgments;

- (5) The number of vehicles to be operated or controlled by the applicant and the location of proposed depots and terminals;
 - (6) The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant;
 - (7) A statement as to whether the applicant meets any of the grounds for refusing to issue a permit as outlined in General Statutes Section 160A-304(a);
 - (8) Such further information as the town council may require.
- (Ord. No. 3792, § 3, 10-20-15)

Sec. 16-54. Same—Application review and public hearing; notice.

(a) Upon the filing of an application for an authorization, the police department shall conduct an investigation of the applicant prior to approving or not approving the applicant.

(b) The chief of police, upon consideration of the application and a background check of the applicant, shall approve or reject the application. Any rejection shall be based on the following:

- (1) 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;
- (2) Violation of any federal or state law relating to the use, possession, or sale of alcoholic beverages or narcotic or barbiturate drugs;
- (3) Addiction to or habitual use of alcoholic beverages or narcotic or barbiturate drugs;
- (4) Violation of any federal or state law relating to prostitution;
- (5) Noncitizenship in the United States;
- (6) Habitual violation of traffic laws or ordinances;

- (7) Any conviction for the possession, sale, or use of a weapon;
 - (8) Any conviction for a sex offense, indecent exposure, or contributing to the delinquency of a minor;
 - (9) Any conviction for a crime of fraud;
 - (10) The applicant shall not be a registered sexual offender; and
 - (11) The application must be free of any fraud, misrepresentation, or any false statement.
- (Ord. No. 3792, § 3, 10-20-15)

Secs. 16-55—16-57. Reserved.

Sec. 16-58. Issuance and duration; renewal.

If the police department approves the issuance of an authorization, the finance department will issue the authorization with consideration given to the following:

- (1) No authorization shall be issued or continued in operation until and unless the person or holder has or continues to comply with the provisions of General Statutes Section 20-280.
- (2) No authorization shall be issued or continued in operation unless the holder thereof has paid an annual license fee of fifteen dollars (\$15.00) for the right to engage in the taxicab business and fifteen dollars (\$15.00) each year for each vehicle operated under the authorization. The license fees shall be for the calendar year and shall be in addition to any other license fees or charges established by proper authority and applicable to the holder or the vehicles under his operation and control.
- (3) An authorization issued pursuant to this article shall be in effect, unless sooner revoked or suspended as provided by this article, for the remainder of the calendar year in which it is issued.

- (4) Renewals shall be applied for and issued or denied pursuant to the provisions of this article for the issuance or denial of the initial authorization.
(Ord. No. 3792, § 3, 10-20-15)

Sec. 16-59. Transferability.

No authorization may be sold, assigned, mortgaged or otherwise transferred without the consent of the town council.
(Ord. No. 3792, § 3, 10-20-15)

Sec. 16-60. Suspension, revocation.

An authorization issued under the provisions of this article may be revoked or suspended by the town council if the holder thereof has violated any of the provisions of this article, discontinued operations for more than thirty (30) days, or has violated any ordinances of the town or the laws of the United States or the laws of the State of North Carolina, the violations of which reflect unfavorably on the fitness of the holder to offer public transportation. Prior to suspension or revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard.
(Ord. No. 3792, § 3, 10-20-15)

Sec. 16-61. Limousines excepted from chapter provisions.

The following sections of this chapter shall not apply to a limousine: sections 16-19 through 16-38, inclusive, and sections 16-40 through 16-42, inclusive.
(Ord. No. 3792, § 3, 10-20-15)

Secs. 16-62—16-66. Reserved.

DIVISION 3. TAXICAB DRIVER'S LICENSE*

Sec. 16-67. Required.

No person shall operate a taxicab for hire upon the streets of the town and no person who owns or controls a taxicab shall permit it to be so driven, and no taxicab licensed by the town shall be so driven at any time for hire, unless the driver of the taxicab has first obtained and has in force a taxicab driver's license issued under the provisions of this article.
(Ord. No. 3792, § 3, 10-20-15)

Sec. 16-68. Where application filed; contents of application.

(a) An application for a taxicab driver's license shall be filed with the finance department on forms provided by the town.

(b) The application shall contain the following information:

- (1) A concise history of the applicant's employment;
- (2) A statement as to whether the applicant meets any of the grounds for refusing to issue a permit as outlined in General Statutes Section 160A-304(a).

(c) As a condition of licensure, the applicant (1) may be subjected to a national criminal history background check, including specifically the use of FBI records, and (2) may be fingerprinted.
(Ord. No. 3792, § 3, 10-20-15)

***Editor's note**—Section 3 of Ord. No. 3792, adopted Oct. 20, 2015, amended div. 3 in its entirety to read as herein set out. Former div. 3, §§ 16-67—16-77, pertained to similar subject matter, and derived from Ord. No. 1231, §§ 10—19, adopted Dec. 7, 1970; Ord. No. 1512, § 1, adopted March 6, 1978; Ord. No. 2693, §§ 3—5, adopted July 18, 1995; Ord. No. 3342, §§ 1—3, adopted July 19, 2005.

State law reference—Authority to require drivers or operators to obtain a license, G.S. § 160A-304.

Sec. 16-69. Application to be accompanied by copy of investigation of applicant, police record.

Each application for a taxicab driver's license filed pursuant to this article shall be accompanied by a copy of the driver's license made from the original license at the time of application for the consideration of the police department.
(Ord. No. 3792, § 3, 10-20-15)

Sec. 16-70. License fee to be paid upon filing application.

At the time the application for a taxicab driver's license is filed, the applicant shall pay the sum of ten dollars (\$10.00) to the finance department.
(Ord. No. 3792, § 3, 10-20-15)

Sec. 16-71. Police to investigate applicant for license.

The police department shall conduct an investigation of each applicant for a taxicab driver's license prior to approving or rejecting the application. The investigation will confirm the information provided by the applicant and will determine if there exist any disqualifiers as outlined in section 16-72 as a condition of licensure.
(Ord. No. 3792, § 3, 10-20-15)

Sec. 16-72. Duty of the chief of police to approve or reject application; applicant authorized to appear before council upon rejection.

(a) The chief of police, upon consideration of the application and a background check of the applicant, shall approve or reject the application. Any rejection shall be based on the following:

- (1) 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;
- (2) Violation of any federal or state law relating to the use, possession, or sale of alcoholic beverages or narcotic or barbiturate drugs;

- (3) Addiction to or habitual use of alcoholic beverages or narcotic or barbiturate drugs;
- (4) Violation of any federal or state law relating to prostitution;
- (5) Noncitizenship in the United States;
- (6) Habitual violation of traffic laws or ordinances;
- (7) Any conviction for the possession, sale, or use of a weapon;
- (8) Any conviction for a sex offense, indecent exposure, or contributing to the delinquency of a minor;
- (9) Any conviction for a crime of fraud;
- (10) The applicant shall not be a registered sexual offender; and
- (11) The application must be free of any fraud, misrepresentation, or any false statement.

(b) If the application is rejected, the applicant may request a personal appearance before the town council to offer evidence why the application should be reconsidered.

(Ord. No. 3792, § 3, 10-20-15)

Sec. 16-73. Reserved.

Sec. 16-74. Issuance; contents; duration; renewal.

(a) Upon approval of an application for a taxicab driver's license, the finance department shall issue a license to the applicant which shall bear the name, address, age, and signature of the applicant.

(b) Such license shall be in effect for the remainder of the calendar year. A license for every calendar year thereafter shall be issued upon payment of five dollars (\$5.00) unless the license for the preceding year has been revoked.
(Ord. No. 3792, § 3, 10-20-15)

Sec. 16-75. Drivers to comply with laws; failure to comply grounds for suspension; revocation of license.

Every driver licensed under this division shall comply with all town, state and federal laws. Failure to comply with such law will justify the chief of police suspending or revoking a license. (Ord. No. 3792, § 3, 10-20-15)

Sec. 16-76. Suspension, revocation generally.

(a) The chief of police is hereby given the authority to suspend any driver's license issued under this division for a driver's failing or refusing to comply with the provisions of this article; such suspension is to last for a period of not more than sixty (60) days.

(b) Reserved.

(c) A license may not be suspended or revoked unless the driver has received notice and has had an opportunity to present evidence in his behalf. (Ord. No. 3792, § 3, 10-20-15)

Sec. 16-77. To be posted.

Every driver licensed under this division shall post his driver's license and the required photo identification in such a place as to be in full view of all passengers while such driver is operating a taxicab. (Ord. No. 3792, § 3, 10-20-15)

Chapter 17

WATER AND SEWERS*

Article I. In General

- Sec. 17-1. Reserved.
- Sec. 17-2. Furnishing water for household purposes from private source.
- Sec. 17-3. Connecting, disconnecting, bypassing, adjusting, regulating, controlling water meters.
- Sec. 17-4. Connections to sanitary sewer system.
- Sec. 17-5. Discharge of water, sewage, refuse, waste into streets a health hazard and nuisance; abatement; authority to require connections, fix charges.
- Sec. 17-6. Connections to municipal systems.
- Secs. 17-7—17-15. Reserved.
- Sec. 17-16. Enforcement.

Article II. Rates and Charges

- Secs. 17-17—17-23. Reserved.
- Sec. 17-24. [Utility development fees—Adopted by reference.]
- Secs. 17-25—17-60. Reserved.

Article III. Use of Sanitary Sewer System

- Secs. 17-61—17-69. Reserved.
- Sec. 17-70. Accidental discharges.
- Secs. 17-71—17-73. Reserved.

Article IV. Extending Water and Sewer Mains

- Sec. 17-74. Petition for annexation prerequisite to provision of service.
- Sec. 17-75. Extending mains; assessments for costs.
- Secs. 17-76—17-79. Reserved.

Article V. Protection of Public Water Supply

- Sec. 17-80. Reserved.
- Sec. 17-81. Devices required.
- Secs. 17-82—17-88. Reserved.
- Sec. 17-89. Enforcement.

Article VI. Stormwater Discharge

- Sec. 17-90. Stormwater discharge.
- Sec. 17-91. Purposes.
- Sec. 17-92. Acronyms.
- Sec. 17-93. Definitions.
- Sec. 17-94. Scope and exclusions.
- Sec. 17-95. Objectives.
- Sec. 17-96. Non-stormwater discharge controls.
- Sec. 17-97. Enforcement.

***Charter reference**—Contracts for water or sewer extension, § 5.6.

Cross reference—Plumbing, § 19-78 et seq.

State law references—Sanitation generally, G.S. §§ 130A-227 et seq.; North Carolina Drinking Water Act, G.S. § 130A-311 et seq.; sanitary sewage systems, G.S. § 130A-333 et seq.

ARTICLE I. IN GENERAL

Sec. 17-1. Reserved.

Editor's note—Ord. No. 3716, § 8, adopted Nov. 19, 2013, repealed § 17-1, which pertained to water distribution system ordinances not affected by Code, and derived from the original codification.

Sec. 17-2. Furnishing water for household purposes from private source.

(a) No person shall furnish for regular use to any other person, except members of his own household, any water for drinking and household purposes from a privately owned well, spring or other privately owned source.

(b) Any person found by the town council to be violating this section shall be served by the town clerk with written notice stating the finding of the council of such violation and providing a reasonable time limit, not to exceed thirty (30) days, within which the offender shall cease such violation. The offender shall, within the period of time stated in such notice, permanently cease such violation.

(Ord. of 8-14-57, §§ 1, 2)

Sec. 17-3. Connecting, disconnecting, bypassing, adjusting, regulating, controlling water meters.

(a) *Connecting, disconnecting, bypassing.* Where water-measuring meters have been installed on the town's water systems, such meters are the property of the town or City of Raleigh. It shall be unlawful for any person other than a duly authorized agent or employee of the town to connect, disconnect or bypass the water meters belonging to the town or City of Raleigh.

(b) *Adjusting, regulating, bypassing or controlling.* It shall be unlawful for any person, without authority of the town or City of Raleigh, to regulate, adjust, bypass or control the water meters of the town or City of Raleigh.

(c) *Violations declared misdemeanors.* Any person violating the provisions of either paragraph (a) or (b) of this section shall be guilty of a misdemeanor with a maximum fine of one hundred dollars (\$100.00).

(d) *Additional fee for service following certain violations.* In addition to any other applicable disconnection fees and charges by the town, any person violating paragraph (a) of this section by turning on the water service of the town after the same has been disconnected by an authorized agent or employee of the town for nonpayment of a water bill or who turns on water service without first notifying the town and receiving authorization from an employee or agent of the town shall be required to pay a fee as set out in the adopted fee schedule before the water service is made available to such person.

(Ord. of 3-3-58; Ord. No. 1651, §§ 1—4, 3-18-80; Ord. No. 2357, § 5, 5-16-89; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 17-4. Connections to sanitary sewer system.

(a) *Unauthorized connections prohibited.* No connection shall be made to the public sewer system nor shall any unauthorized person uncover, make any opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining written approval from the superintendent.

(b) *Authorized connections.* Any authorized connection granted by the City of Raleigh shall be subject to terms and conditions then in effect. All expenses incidental to the installation and connection of building sewers shall be borne by the owner. A separate and independent building sewer shall be provided for every building, except upon written approval from the City of Raleigh for single discharge points, which approval shall be given where required by special conditions, such as where one (1) building stands at the rear of another on an interior lot and no building sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway; in such case the front building sewer may be extended to the rear building and the whole considered as one (1) building sewer. The town does not and shall not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

(c) *Indemnification.* The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer; provided, however, that such indemnification shall not extend to loss or damage due solely to willful misconduct or negligence on the part of the local government.

(d) *Existing building sewers.* Existing building sewers may be used in connection with new buildings only when they are found, on examination and testing by the City of Raleigh to meet all requirements of this chapter. Existing building sewers may be kept in service if, in the opinion of the superintendent, they are in acceptable structural condition and operate satisfactorily. All new building sewers, including any necessary replacement of existing building sewers, must comply with the state building code.

(e) *Other drainage prohibited.* No person shall make connection of roof downspouts, foundation drains, areaway drains or other sources of infiltration/inflow to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(f) *Repairs.* It shall be the responsibility of the property owner to keep and maintain the building sewer connected to the public sewer in good repair. The owner shall be responsible for making necessary repairs, at his own expense, to the building sewer within thirty (30) days after receiving written notification by the local government that such repairs are necessary. Should the owner fail to repair the building sewer, the town may make the repairs and assess the cost of the repairs to the owner as an abatement or [of] a nuisance.

(g) *Interceptors.* Grease, oil and sand interceptor sewers shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing floatable oil in excessive amounts, sand or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City of Raleigh and shall be located as to be readily and easily accessible for cleaning and inspection.

Where installed, all grease, oil and sand interceptors shall be maintained by the owner at his expense in continuously efficient operation at all times. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal, which are subject to review by the state, Wake County or the City of Raleigh. Any removal and hauling of collected materials must be performed according to applicable state, federal and local regulations. (Ord. No. 2637, § 1, 7-5-94; Ord. No. 3716, § 8, 11-19-13)

Sec. 17-5. Discharge of water, sewage, refuse, waste into streets a health hazard and nuisance; abatement; authority to require connections, fix charges.

(a) The discharge of water, sewage, refuse or other waste by any person from any improved property that is used for a residence or business within the corporate limits of the town into street, alleys or public ways or private premises in the town is hereby declared a health hazard and a public nuisance, and the same may be abated in the same manner as other public nuisances are abated. After notice thereof by the town manager, building inspector or chief of police, the person shall immediately correct such condition.

(b) Where such a public nuisance or health hazard exists as described in paragraph (a), the town may require any owner of improved property within the corporate limits of the town to connect with said system, as required by section 17-4, all water closets, bathtubs, lavatories, sinks, commodes or drains so that their contents may be made to empty into such sewer and fix charges for such connection; provided, that sixty (60) days' notice shall be given the property owner or occupant before the connection shall be required. (Ord. No. 1144, § 2, 3-1-65)

Sec. 17-6. Connections to municipal systems.

(a) *When connection to municipal water and sewer system required; payment of charges and fees.* Where an owner of improved property shall

request to connect to either the municipal water or sewer system, the town shall require that such owner connect to both systems, including making payment for the charges of such connection and associated acreage fees as are then in effect in accordance with other sections of this Code.

(b) *Discontinuing service prohibited.* An owner of improved property which has utility service is prohibited from discontinuing the service while containing or changing the use of the improved property.

(c) *Mandatory utility requirements for property with changed or increased use.* An owner of improved property which as a result of changed or increased use is required to obtain site permit or conditional use permit shall be governed by the mandatory utility requirements set forth in the Land Use Ordinance and Utility Extension Policy for new development.

(d) *When connection to municipal systems required for public health.* An owner of improved property is required to tap on to the municipal water or sewer systems if in a particular case the public health and safety so requires, in the opinion of the town engineer, and the systems are available as defined herein.

(e) *When water line deemed available.* A water line is "available" to an improved property within the meaning of this section when such line is on or at or abuts the property, in the right-of-way or easement of a road, street or cul-de-sac or in a public or private utility easement.

(f) *When sewer collection line deemed available.* A sewer collection line is "available" to an improved property within the meaning of this section when such line is on or at or abuts the property, in the right-of-way or easement of a road, street or cul-de-sac or in a public or private utility easement; provided, that a sewer collection line shall not be deemed to be "available" where gravity flow is not feasible. (Ord. No. 2191, § 1, 10-5-87; Ord. No. 2434, § 1, 7-17-90; Ord. No. 2542, § 2, 6-1-92)

Secs. 17-7—17-15. Reserved.

Sec. 17-16. Enforcement.

Except where otherwise specified, a violation of this article shall be subject to issuance of a civil penalty in accordance with section 1-8. (Ord. No. (2022)5091, § 1, 1-3-22)

ARTICLE II. RATES AND CHARGES*

Secs. 17-17—17-23. Reserved.

Editor's note—Ord. No. 3716, § 8, adopted Nov. 19, 2013, repealed former §§ 17-17—17-23, which pertained to ordinances not affected by Code; water and sewer use charges; late payment charges; termination of service for non-payment; re-establishment of water service which has been terminated for nonpayment; reconnection fees; and water and sewer tap charges. See the Code Comparative Table for a complete derivation.

Sec. 17-24. [Utility development fees—Adopted by reference.]

(a) The town's ordinance of fees and charges be, and the same is hereby amended to adopt by reference Ordinance No. 2017-735 adopted on September 5, 2017 by the City of Raleigh to be appended to and be a part of this section, effective upon adoption;

(b) All Town of Garner utility development fees, including acreage fees and water and sewer utility capacity fees (also known as water and sewer capacity fees or capacity replacement fees) be, and the same are hereby, suspended save and except as to the development fees referred to as "combined fees" in the aforesaid settlement agreement, all of which shall remain in effect pursuant to the authority previously given to the City of Raleigh and the Town of Garner by law and by the contract between the parties thereto, such fees and charges to be collected only when the Edge of Auburn exercises its right to request annexation and seek utility service under the aforesaid settlement agreement or any amendment thereto, and shall be collected only in accordance with the terms and conditions in that settlement agreement or any amendment thereto, with payment due as provided in said settlement agreement, or no later than when a building

***Charter reference**—Authority to establish and collect acreage charges for water and sewer connections, § 5.5.

permit application is filed for the particular new development; provided, however, that this section has no application to fees and charges associated with plan review, building permits and similar fees and charges for services rendered in connection with development which remain in effect at current levels.

(Ord. No. 3884, §§ 1, 2, 9-19-17)

Editor's note—Ord. No. 3884, §§ 1, 2, adopted Sept. 19, 2017, supersedes the former provisions of § 17-24, which pertained to acreage fees and derived from Ord. No. 2009, § 1, adopted May 21, 1985; Ord. No. 2017, § 1, adopted July 5, 1985; Ord. No. 2275, §§ 1—4, adopted July 19, 1988; Ord. No. 2357, § 5, adopted May 16, 1989; Ord. No. 3000, § 2, adopted Dec. 19, 2000.

Sec. 17-25. Reserved.

Editor's note—Ord. No. 3884, §§ 1, 2, adopted Sept. 19, 2017, supersedes the former provisions of § 17-25, which pertained to water and sewer capacity replacement fees and derived from Ord. No. 2442, § 1, adopted Sept. 11, 1990; Ord. No. 2639, §§ 2, 3, adopted July 19, 1994; Ord. No. 2748, § 1, adopted July 16, 1996; Ord. No. 3000, § 2, adopted Dec. 19, 2000; Ord. No. 3716, § 8, adopted Nov. 19, 2013.

Secs. 17-26, 17-27. Reserved.

Editor's note—Ord. No. 3716, § 8, adopted Nov. 19, 2013, repealed former §§ 17-26 and 17-27, which pertained to pretreatment program administrative charges; and emergency water shortage conservation measures, and derived from Ord. No. 2637, § 1, adopted July 5, 1994; Ord. No. 2750, § 7, adopted Aug. 5, 1996; Ord. No. 2910, § 1, adopted July 6, 1999; and Ord. No. 3000, § 2, adopted Dec. 19, 2000. See Town of Garner Ordinance No. (2007) 3468 that implements City of Raleigh Ordinance No. 2007 (235) regarding mandatory water conservation rules.

Secs. 17-28—17-60. Reserved.

ARTICLE III. USE OF SANITARY SEWER SYSTEM*

Secs. 17-61—17-69. Reserved.

Editor's note—Ord. No. 3716, § 8, adopted Nov. 19, 2013, repealed former §§ 17-61—17-69, which pertained to definitions; injury to systems; removing, damaging, breaking, etc.; prohibited use of public sanitary sewers; permissive

***Editor's note**—Ord. No. 1880, § 1, adopted Sept. 20, 1983, amended Ch. 17, Art. III, in its entirety to read as herein set out in §§ 17-61—17-71. Prior to amendment, Art. III, §§ 17-61—17-67, relative to discharges in sewers, derived from Ord. No. 1300, adopted Nov. 21, 1972, and Ord. No. 1682, adopted July 22, 1980.

use of public sanitary sewers and other waste; powers and authority for inspection; measurement and flow; determination of character and concentration of wastes; depositing substances in manholes; and penalties, and derived from Ord. No. 1880, § 1, adopted Sept. 20, 1983; and Ord. No. 1896, § 1, adopted Dec. 5, 1983.

Sec. 17-70. Accidental discharges.

(a) *Notification required.* In the case of an accidental discharge of prohibited substances or other substances regulated by this article, it is the responsibility of the user to immediately telephone and notify the City of Raleigh of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and the user's anticipated corrective actions.

(b) *Written notice.* Within five (5) days following an accidental discharge, the user shall submit to the City of Raleigh a detailed written report describing the cause, nature and magnitude of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the town, fish kills or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(c) *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees of the user whom to call in the event of an accidental discharge. Employers shall ensure that all employees who may cause or suffer such an accidental discharge to occur are advised of the emergency notification procedure.

(Ord. No. 1880, § 1, 9-20-83; Ord. No. 3716, § 8, 11-19-13)

Sec. 17-71. Reserved.

Editor's note—Ord. No. 3716, § 8, adopted Nov. 19, 2013, repealed former § 17-71, which pertained to reporting requirements, and derived from Ord. No. 1880, § 1, adopted Sept. 20, 1983.

Secs. 17-72, 17-73. Reserved.

ARTICLE IV. EXTENDING WATER AND SEWER MAINS*

Sec. 17-74. Petition for annexation prerequisite to provision of service.

No water or sewer service shall be provided to any property outside of the municipal limits of the town unless the property owners shall have petitioned for annexation of said property into the municipal limits of the town.
(Ord. No. 2382, § 1, 9-5-89)

Sec. 17-75. Extending mains; assessments for costs.

(a) Lateral water and sewer main extensions will be made by assessment of the cost thereof against property owners to be benefited thereby in conformity with Article 10 of Chapter 160A of the General Statutes of North Carolina as amended. In the event it is necessary or desirable to lay a water main larger than a six-inch main or sewer main larger than an eight-inch main, the town will bear the cost of the difference between the size of main required and a six-inch water main or eight-inch sewer main.

(b) Lots at the intersection of streets, except lots in a subdivision which are assessed on a per-lot basis as authorized by Article 10 of Chapter 160A of the General Statutes of North Carolina, as amended, shall be assessed as follows:

- (1) If water or sewer mains or both are installed simultaneously on both streets on which the lot abuts, assessment of the cost of the installation shall be based upon the entire frontage on one (1) street plus the frontage on the other street in excess of one hundred and fifty (150) feet.
- (2) If such lot is already served by water or sewer mains in a street on which the lot abuts and a like main is installed in the other abutting street, the cost of such

new installation shall be assessed against the lot to the extent that such frontage abutting the new installation exceeds one hundred fifty (150) feet.

- (3) If water or sewer service is installed in a street abutting a corner lot, and such service is not a duplicating service, and the method of assessment used is the street frontage method, the assessment shall not exceed the number of feet of the shortest side of said lot abutting the street. Upon installation of a duplicating service to said lot, an exemption as specified in subsection (b)(2) above shall be credited against the longest side of said lot abutting on the public street.

(c) Where one (1) or more water or sewer lines traverse a lot or tract of land and the method of assessment used is the abutting footage on the improvement, the abutting footage for each lot, tract or parcel assessed according to the assessment roll shall not exceed the straight line distance between the beginning point and the ending point of said line or lines. Provided, upon the installation of a duplicating municipal service to a traversed lot or tract of land, an exemption of one hundred fifty (150) feet shall be allowed for the duplicating municipal service, whether it is installed separately or simultaneously with the original service.

(d) A lot not on a corner abutting two (2) streets which have a water or sewer service in one (1) street shall not be liable for an assessment for a duplicating municipal service in the other street or streets, if the subdivision of such lot or sale of any part thereof for an additional building site or sites is prohibited by the zoning or subdivision standard provisions of this Code and ordinances or restrictive covenants running for a period of not less than five (5) years from the date of the assessment for such installation.

(e) The term "lot," as used in this section, is defined as a parcel of land without regard to whether or not shown on any subdivision map as separate lots and without regard to how or when acquired, except that when an assessment is made on a per-lot basis in a subdivision, the term "lot" shall apply to each separate subdivided lot.

***Editor's note**—Ord. No. 1397, adopted March 3, 1975, expressly amended this Code by adding Ch. 17, Art. IV, § 17-75, as herein set forth.

Provided, however, that when a lot in a subdivision is already served by a municipal water or sewer line and the lots in the subdivision are assessed on a per-lot basis, the lot so served shall not be assessed a greater amount than the amount which would be assessed against the lot on a linear-foot basis after giving credit for the exemptions contained in this section.

(f) The town council shall determine which method of assessment authorized by General Statutes, section 160A-218, as amended, would be most equitable to be used in an assessment roll.

(g) A maximum assessment for water and sewer shall be determined and revised periodically, based on considering a recent history of area construction costs and other relevant data, and shall be set forth in Ordinance No. (1986) 2112, miscellaneous fees and charges, as the same shall be amended from time to time.

- (1) When the town council determines that the most equitable method of assessment is that on the basis of the frontage abutting on the project, the council shall determine the amount of the construction cost to be borne by the abutting property owner and the amount borne by the town, except that in no case shall the amount borne by the property owner exceed the maximum per linear foot assessment figure set forth in said ordinance.
- (2) When the town council determines that the most equitable method of assessment is that on a per lot basis, the council shall determine the amount of the construction cost to be borne by the abutting property owner and the amount borne by the town, except that in no case shall the amount borne by the property owner exceed the figure produced by the following calculation:

Maximum assessment per lot equals the linear footage of the project area served, measured at the street centerline, times the per linear foot maximum figure times 2 divided by the number of lots.

- (3) Provided, however, that the council, before applying the procedure in either subsection (1) or (2) above, shall determine that the use of either procedure shall not produce charges in excess of the actual project cost.

(h) It is the policy of the town to endeavor to provide sanitary sewers for the gravity collection of sewage from dwellings, buildings or other structures used for human habitation or occupancy within the town if such structures are situated on a parcel of land which abuts or adjoins a street or other public way and meet conditions set forth in section 17-4 of the Town Code. However, notwithstanding the intent of this policy or that of any other section of the Town Code, no collector sewer line will be installed at a depth of more than ten (10) feet below the surface of the ground in which it is laid unless owners of property which cannot be served by gravity collector sewer lines of ten (10) feet or less in depth pay the difference between the cost of laying such a line at a depth of ten (10) feet and the cost of laying the line at a greater depth. Such pavement by a property owner for extra-depth installations shall be in addition to the amount assessed to that property owner for the proportionate cost of the line had it not been laid at a depth greater than ten (10) feet. Such cost shall be determined by the town's engineering department and shall be paid within thirty (30) days of the date of demand for payment or the sewer will be laid at not more than ten (10) feet of depth.

As an alternative to paying for an extra-depth collector sewer line installation, owners of property which cannot obtain gravity flow into collector sewer lines of ten (10) feet or less in depth may elect to purchase, install and maintain pumps for the purpose of pumping sewage from their structure into the town's collector sewer line. (Ord. No. 1397, 3-3-75; Ord. No. 1612, § 1, 8-21-79; Ord. No. 1650, § 1, 3-18-80; Ord. No. 2191, §§ 2—5, 10-5-87)

Secs. 17-76—17-79. Reserved.**ARTICLE V. PROTECTION OF PUBLIC WATER SUPPLY****Sec. 17-80. Reserved.**

Editor's note—Ord. No. 3716, § 8, adopted Nov. 19, 2013, repealed former § 17-80, which pertained to purpose, policy and definitions, and derived from Ord. No. 2463, § 1, adopted Jan. 7, 1991; and Ord. No. 2769, § 1, adopted Dec. 17, 1996.

Sec. 17-81. Devices required.

(a) *Containment devices.* All connections to the public water supply of the City of Raleigh shall, in addition to complying with all other applicable codes and regulations, include a containment device in the form of a double check valve backflow prevention device, a reduced pressure zone principle backflow prevention device (RPZ), or a dual angle check valve for services one (1) inch or smaller which are determined by the utilities director to be domestic use only, in accordance with the criteria set forth in this Code. This shall include not only individual taps to the public water supply system but also water mains installed to the town's standard, and with the town's supervision, but which are not maintained by the town, including, but not limited to, residential units, apartments, group housing projects, mobile home parks and other private distribution systems, or similar connections as determined by the City of Raleigh.

(b) *Cross-connection, etc., or installation of confinement device without approval prohibited.* It shall be unlawful for any person to cause a cross-connection, auxiliary intake or interconnection to be made, except as provided in this Code, or to install, remove or maintain, or cause the installation, removal or maintenance of, a containment or confinement device without the prior approval by the cross-connection coordinator.

(c) *Responsibility of consumer.* Nothing herein shall relieve the consumer of the responsibility for conducting or causing to be conducted periodic surveys of water use practices on his premises to determine whether there are actual or potential cross-connections in the consumer's water system

through which contaminants or pollutants could flow back into a public water system or a potable consumer's water system.

(d) *Operation of potentially hazardous conditions prohibited.* No consumers shall operate a potentially hazardous condition as set forth in section 17-83(a).

(e) *Correction.* Any consumer shall be allowed ninety (90) days to correct any cross-connections or potentially hazardous condition, as defined herein. The ninety (90) days will be from the date of receipt of the notification given by the cross-connection coordinator.

(f) *Containment devices required on residential services; fees.* A containment device in the form of a dual angle valve backflow prevention device shall be required on all residential services for domestic water use before water service shall be provided. A new customer completing an application for service pursuant to section 17-18 of this Code shall pay the backflow prevention device fee then in effect before service will be provided. Provided, however, once a backflow prevention device is installed at a specified address, no further fee shall be charged, or if such fee is charged, it shall be refunded upon proof that the address already has such a device and no backflow prevention fee shall be charged as a consequence of reconnection service which has been terminated for nonpayment.

(Ord. No. 2463, § 1, 1-7-91; Ord. No. 2470, § 1, 3-19-91; Ord. No. 2769, § 2, 12-17-96; Ord. No. 3716, § 8, 11-19-13)

Secs. 17-82—17-88. Reserved.**Sec. 17-89. Enforcement.**

A violation of this section is punishable as a misdemeanor with a maximum fine of one hundred dollars (\$100.00).

(Ord. No. (2022)5091, § 1, 1-3-22)

ARTICLE VI. STORMWATER DISCHARGE**Sec. 17-90. Stormwater discharge.**

This article shall be known and may be cited as the Town of Garner's "Illicit Discharge Ordinance."

(Ord. No. 3007, § 2, 2-5-01)

Sec. 17-91. Purposes.

- (a) This article is adopted for the purposes of:
- (1) Protecting the public health, safety and welfare by controlling the discharge of pollutants into the stormwater conveyance system;
 - (2) Promoting activities directed toward the maintenance and improvement of surface and groundwater quality;
 - (3) Satisfying the requirements imposed upon the town by the North Carolina Division of Water Quality in order to conform with the Neuse under its National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) discharge permit issued by the state; and
 - (4) Establishing administration and enforcement procedures through which these purposes can be fulfilled.

(b) The provisions of this regulation are supplemental to regulations administered by federal and state governments.

(Ord. No. 3007, § 2, 2-5-01)

Sec. 17-92. Acronyms.

DEHNR: North Carolina Department of Environment Health and Natural Resources.

DEM: North Carolina Division of Environmental Management.

MS4: Municipal separate storm sewer system.

NPDES: National Pollutant Discharge Elimination System.

(Ord. No. 3007, § 2, 2-5-01)

Sec. 17-93. Definitions.

As used in this article, unless the context clearly indicates otherwise, the following definitions apply:

Federal law reference. National pollutant discharge elimination system permits, 33 USC § 1342.

Illicit connection. Any unlawful connection which allows the discharge of non-stormwater to the stormwater conveyance system or waters of the state in violation of this article.

Illicit discharge. Any unlawful disposal, placement, emptying, dumping, spillage, leakage, pumping, pouring, emission, or other discharge of any substance other than stormwater into a stormwater conveyance, the waters of the state, or upon the land in such proximity to the same, such that the substance is likely to reach a stormwater conveyance or the waters of the state.

Municipal separate storm sewer system (MS4). A stormwater conveyance or unified stormwater conveyance system (including without limitation: roads with drainage systems, municipal streets, catch basins, stormwater detention facilities, curbs, gutters, ditches, natural or man-made channels, or storm drains), that:

- (1) Is located within the corporate limits of Garner, North Carolina; and
- (2) Is owned or operated by the state, county, the town, or other public body; and
- (3) Discharges to waters of the state, excluding publicly owned treatment works, and lawful connections thereto, which in turn discharge into the waters of the state.

National pollutant discharge elimination system. A permitting system established pursuant to § 402 of the Clean Water Act et seq.

Pollution. Man-made or man-induced alteration of the chemical, physical, biological, thermal, and/or radiological integrity of water.

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

Stormwater conveyance or stormwater conveyance system. Any feature, natural or man-made, that collects and transports stormwater, including but not limited to roads with drainage systems, streets, catch basins, curbs, gutters, ditches, man-made and natural channels, pipes, culverts, and storm drains, and any other natural or man-made feature or structure designed or used for collecting or conveying stormwater.

Waters of the state. Surface waters within or flowing through the boundaries of the state including the following: any intermittent or perennial stream, river, creek, brook, swamp, lake, sound, tidal estuary, bay, reservoir, wetland, or any other surface water or any portion thereof that is mapped as solid or dashed blue lines on United States Department of the Interior Geological Survey 7.5 minute series topographic maps. Treatment systems, consisting of man-made bodies of water, which were not originally created in waters of the state and which are not the result of impoundment of waters of the state, are not waters of the state.

(Ord. No. 3007, § 2, 2-5-01)

Sec. 17-94. Scope and exclusions.

This article shall apply within the territorial jurisdiction of the town, with the following exclusions: federal, state, and local governments, including their agencies, unless intergovernmental agreements have been established giving the town enforcement authority.

(Ord. No. 3007, § 2, 2-5-01)

Sec. 17-95. Objectives.

The objectives of this article are to:

- (1) Regulate the discharge of substances which may contaminate or cause pollution of stormwater, stormwater conveyances, or waters of the state;
- (2) Regulate connections to the stormwater conveyance system;
- (3) Provide for the proper handling of spills; and
- (4) Provide for the enforcement of same.

(Ord. No. 3007, § 2, 2-5-01)

Sec. 17-96. Non-stormwater discharge controls.

(a) *Illicit discharges.* No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, the waters of the state, or upon the land in such proximity to the same (such that the substance is likely to reach a stormwater conveyance or the waters of the state), any fluid, solid, gas, or other substance, other than stormwater; provided that non-stormwater discharges associated with the following activities are allowed provided that they do not significantly impact water quality:

- (1) Filter backwash and draining associated with swimming pools;
- (2) Filter backwash and draining associated with raw water intake screening and filtering devices;
- (3) Condensate from residential or commercial air conditioning;
- (4) Residential vehicle washing;
- (5) Flushing and hydrostatic testing water associated with utility distribution systems;
- (6) Discharges associated with emergency removal and treatment activities, for hazardous materials, authorized by the federal, state, or local government on-scene coordinator;
- (7) Uncontaminated groundwater [including the collection or pumping of springs, wells, or rising groundwater and groundwater generated by well construction or other construction activities];
- (8) Collected infiltrated stormwater from foundation or footing drains;
- (9) Collected groundwater and infiltrated stormwater from basement or crawl space pumps;
- (10) Irrigation water;
- (11) Street wash water;
- (12) Flows from fire fighting;

- (13) Discharges from the pumping or draining of natural watercourses or waterbodies;
- (14) Flushing and cleaning of stormwater conveyances with unmodified potable water;
- (15) Wash water from the cleaning of the exterior of buildings, including gutters, provided that the discharge does not pose an environmental or health threat; and
- (16) Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by DEM, and provided that any such discharges to the municipal separate storm sewer system shall be authorized by the town.

Prohibited substances include but are not limited to: oil, antifreeze, chemicals, animal waste, paints, garbage, and litter.

(b) *Illicit connections.*

- (1) Connections to a stormwater conveyance or stormwater conveyance system which allow the discharge of non-stormwater, other than the exclusions described in subsection (a) above, are unlawful. Prohibited connections include, but are not limited to: floor drains, wastewater from washing machines or sanitary sewers, washwater from commercial vehicle washing or steam cleaning, and wastewater from septic systems.
- (2) Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one (1) year following application of this regulation; provided that, this grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.

- (3) Where it is determined that said connection:

- a. May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat; or
- b. Was made in violation of any applicable regulation or ordinance.

The town manager or his designee shall designate the time within which the connection shall be removed. In setting the time limit for compliance, the town shall take into consideration:

- a. The quantity and complexity of the work;
- b. The consequences of delay;
- c. The potential harm to the environment, to the public health, and to public and private property; and
- d. The cost of remedying the damage.

Permits are issued by the inspections department for connection to or modification of storm sewers located in town owned rights-of-way.

(c) *Spills.* Spills or leaks of polluting substances discharged to, or having the potential to be indirectly transported to the stormwater conveyance system, shall be contained, controlled, collected, and removed promptly. All affected areas shall be restored to their preexisting condition.

Persons associated with the spill or leak shall immediately notify the town fire chief or his designee of all spills or leaks of polluting substances. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by state or other law.

(Ord. No. 3007, § 2, 2-5-01)

Sec. 17-97. Enforcement.

(a) *Authority to enter.* Any authorized town personnel shall be permitted to enter upon public or private property for the purposes of observation, inspection, sampling, monitoring, testing, surveying, and measuring compliance. Should the owner or occupant of any property refuse to permit such reasonable access, the town manager or his designee shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor. No person shall obstruct, hamper or interfere with any such representative while carrying out his official duties.

(b) *Civil penalties.*

(1) *Illicit discharges.* Any designer, engineer, contractor, agent, or any other person who allows, acts in concert, participates, directs, or assists directly or indirectly in the creation of a violation of this article shall be subject to civil penalties as follows:

- a. For first time offenders, if the quantity of the discharge is equal to or less than five (5) gallons and consists of domestic or household products in quantities considered ordinary for household purposes, said person shall be assessed a civil penalty not to exceed one hundred dollars (\$100.00) per violation or per day for any continuing violation, and if the quantity of the discharge is greater than five (5) gallons or contains non-domestic substances, including but not limited to process wastewater, or if said person cannot provide clear and convincing evidence of the volume and nature of the substance discharged, said person shall be assessed a civil penalty not to exceed one thousand dollars (\$1,000.00) per violation or per day for any continuing violation.
- b. For repeat offenders, the amount of the penalty shall be double the amount assessed for the previous penalty, not to exceed ten thousand

dollars (\$10,000.00) per violation or per day for any continuing violation.

c. In determining the amount of the penalty, the town manager or his designee shall consider:

1. The degree and extent of harm to the environment, the public health, and public and private property;
2. The cost of remedying the damage;
3. The duration of the violation;
4. Whether the violation was willful;
5. The prior record of the person responsible for the violation in complying or failing to comply with this article;
6. The costs of enforcement to the public; and
7. The amount of money saved by the violator through his, her, or its noncompliance.

(2) *Illicit connections.* Any person found with an illicit connection in violation of this article and any designer, engineer, contractor, agent, or any other person who allows, acts in concert, participates, directs, or assists directly or indirectly in the establishment of an illicit connection in violation of this article, shall be subject to civil penalties as follows:

- a. First time offenders shall be subject to a civil penalty not to exceed five hundred dollars (\$500.00) per day of continuing violation.
- b. Repeat violators shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000.00) per day of continuing violation.
- c. In determining the amount of the penalty, the town manager or his designee shall consider:
 1. The degree and extent of harm to the environment, the public health, and public and private property;

2. The cost of remedying the damage;
 3. The duration of the violation;
 4. Whether the violation was willful;
 5. The prior record of the person responsible for the violation in complying or failing to comply with this article;
 6. The costs of enforcement to the public; and
 7. The amount of money saved by the violator through his, her, or its noncompliance.
- d. Procedures for assessing penalties pursuant to illicit connections. Said penalties shall be assessed by the town manager or his designee. No penalty shall be assessed until the person alleged to be in violation is served written notice of the violation by registered mail, certified mail-return receipt requested, or personal service. Refusal to accept the notice shall not relieve the violator of the obligation to pay the penalty. The notice shall describe the violation with particularity and specify the measures needed to come into compliance. The notice shall designate the time within which such measures must be completed. In setting the time limit for compliance, the town shall take into consideration:
1. The quantity and complexity of the work;
 2. The consequences of delay;
 3. The potential harm to the environment, the public health, and public and private property; and
 4. The cost of remedying the damage.

The notice shall warn that failure to correct the violation within the specified time period will result in the

assessment of a civil penalty and/or other enforcement action. If after the allotted time period has expired, and the violation has not been corrected, the penalty shall be assessed from the date of receipt of notice of violation and each day of continuing violation thereafter shall constitute a separate violation under this section.

Any person found in violation of other provisions of this article, not specifically enumerated elsewhere, shall be subject to a civil penalty not to exceed one hundred dollars (\$100.00) per violation or per day for any continuing violation.

- (3) *Payment/collection procedures.* Penalties shall be assessed by the town manager or his designee. No penalty shall be assessed until the person alleged to be in violation is served written notice of the violation by registered mail, certified mail-return receipt requested, or personal service. Refusal to accept the notice shall not relieve the violator of the obligation to pay the penalty. The town manager or his designee shall make written demand for payment upon the person in violation. If the payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter shall be referred to the town attorney for institution of a civil action in the name of the town, in the appropriate division of the general court of justice in Wake County for recovering the penalty.

(c) *Injunctive relief.*

- (1) Whenever the town council has a reasonable cause to believe that any person is violating or threatening to violate this article, rule, regulation, order duly adopted or issued pursuant to this article or making a connection to a stormwater conveyance or stormwater conveyance system other than in accordance with the terms, conditions, and provisions of approval, the town may, either before or

after the institution of any other action or proceeding authorized by the Code, institute a civil action in the name of the town for injunctive relief to restrain and abate the violation or threatened violation.

- (2) The institution of an action for injunctive relief under subsection (c) shall not relieve any party to such proceeding from any further civil or criminal penalty prescribed for violations of this Code.

(d) *Criminal penalties.* Any person who knowingly or willfully violates any provision of this article, rule, regulation, order duly adopted or issued pursuant to this article shall be guilty of a misdemeanor, punishable by a fine not to exceed five hundred dollars (\$500.00) or imprisonment for not longer than thirty (30) days. Each violation shall be a separate offense.

(Ord. No. 3007, § 2, 2-5-01; Ord. No. (2022)5091, § 1, 1-3-22)

Chapter 18

WEAPONS AND EXPLOSIVES*

Article I. In General

- Sec. 18-1. Discharge of firearms; seizure of firearms; applicability of section.
Sec. 18-2. Weapons prohibited on town property.
Secs. 18-3—18-12. Reserved.

Article II. Fireworks

- Sec. 18-13. Sale prohibited.
Sec. 18-14. Discharge within town prohibited; applicability of section; penalty.

***State law reference**—Authority for town to regulate explosive, corrosive, inflammable or radioactive substances, G.S. § 160A-183.

ARTICLE I. IN GENERAL

Sec. 18-1. Discharge of firearms; seizure of firearms; applicability of section.

(a) It shall be unlawful for any person to shoot or discharge within the corporate limits of the town or on any town-owned property any gun, pistol or other firearm, or air rifle, pellet gun, BB gun, or similar device, by whatever name, for throwing a metal projectile by use of spring action or compressed air. A violation of this subsection (a) is punishable as a misdemeanor with a maximum fine of one hundred dollars (\$100.00).

(b) Any town policeman is hereby authorized to seize and hold subject to court order any such gun, pistol or other firearm which shall have been shot or discharged within the town in violation of this section.

(c) The provisions of this section shall not be construed to prohibit the discharge of firearms either during the course of instruction in their use by the police department of the town or on a firing range after inspection and approval of the use of such range by the chief of police from the standpoint of public safety, or to the firing of firearms without projectiles in organized educational, entertainment, instructional or ceremonial events, sponsored by the Garner Parks, Recreation and Cultural Resources Department. Such inspection and approval shall be evidenced by a written permit issued by the chief of police to the applicant, and the chief shall impose any condition or conditions upon the use of such range deemed by him to be necessary and prudent with due regard to life, property and public safety. Such permit shall be revocable by the chief upon a finding by him that the permit holder is not exercising the privilege of such permit in a careful and prudent manner and with due regard to life and property.

(d) The provisions of this section shall not be construed to prohibit the lawful discharge of a firearm by any sworn law enforcement officer or North Carolina licensed protective services officer in the discharge of his duty or by any person in

the lawful defense of persons and property as prescribed in G.S. Chapter 14, Article 14 (Burglary and Other Housebreakings).

(Ord. No. 1006, § 24, 4-6-59; Ord. No. 1171, § 1, 10-2-67; Ord. No. 1229, § 1, 11-9-70; Ord. No. 2296, § 2, 9-20-88; Ord. No. 2445, § 1, 9-18-90; Ord. No. 2569, § 1, 2-16-93; Ord. No. 2902, § 1, 4-26-98; Ord. No. 3638, § 1, 11-22-11; Ord. No. (2022)5091, § 1, 1-3-22)

Cross reference—Firing weapons within bird sanctuary unlawful, § 3-13.

State law reference—Authority for town to regulate the use of firearms, G.S. § 160A-189.

Sec. 18-2. Weapons prohibited on town property.

(a) Except as provided in subsection (g) below, all persons are prohibited from possessing any firearm, including a handgun carried under the authority of a lawful concealed handgun permit, in town-owned buildings and their appurtenant premises, as defined herein.

(b) Except as provided in subsection (g) below, all persons are prohibited from possessing any firearm, unless carried concealed under the authority of a lawful concealed handgun permit, in any town park. However, the exception for concealed carry on a lawful concealed handgun permit does not apply to those locations identified in subsection (c).

(c) Except as provided in subsection (g) below, all persons are prohibited from possessing any firearm, including a concealed handgun carried under the authority of a lawful concealed handgun permit, at the following town athletic facilities (facilities used for athletic events, including, but not limited to, a gymnasium) and athletic fields (any athletic fields, including any appurtenant facilities such as restrooms, during an organized athletic event if the field had been scheduled for use with the parks, recreation, and cultural resources department) in accordance with G.S. 14-415.23:

- (1) The Avery Street recreation facility located at 125 Avery Street;
- (2) The athletic field inside Avery Street Park located at 201 Avery Street;

- (3) The soccer fields inside Centennial Park located at 1015 New Bethel Church Road;
- (4) The tennis courts located at 190 Creech Road;
- (5) The baseball fields inside Garner Recreational Park located at 221 East Garner Road;
- (6) The baseball field inside Rand Mill Road Park located at 608 Rand Mill Road;
- (7) The baseball fields, multipurpose athletic field, and tennis courts inside South Garner Park located at 1210 Poole Drive;
- (8) The multipurpose athletic field located inside Thompson Road Park located at 550 Thompson Road.

(d) Except as provided in subsection (g) below, all persons are prohibited from possessing weapons, other than firearms, as defined in G.S. 14-269 in town-owned buildings, their appurtenant premises, and in town parks and recreational facilities, as defined herein.

(e) Nothing herein is intended to prohibit a person from storing a firearm within a motor vehicle while the vehicle is on the aforementioned properties in the town.

(f) For the purposes of this section, "buildings" is defined as set forth in G.S. 14-54(c) as including any dwelling, dwelling house, uninhabited house, building under construction, building within the curtilage of a dwelling house, and any other structure designed to house or secure within it any activity or property.

(g) This prohibition shall not apply to the following persons:

- (1) Those persons identified in G.S. 14-269(b);
- (2) Town of Garner or Wake County animal control officers; and
- (3) Persons firing firearms without projectiles in organized educational, entertainment, instructional, or ceremonial events sponsored by the Garner Parks, Recreation and Cultural Resources Department.

(h) A conspicuous notice shall be posted at each entrance to any property or facility set forth in [subsections] (a), (b), or (c) above, outlining the restrictions prescribed in this section.

(i) Any person in violation of this section shall be guilty of a misdemeanor and upon conviction shall be fined five hundred dollars (\$500.00) or imprisoned for six (6) months or both.

(j) Firearms and other weapons possessed in violation of this article are hereby declared to be contraband. The chief of police or his designee shall dispose of such weapons pursuant to applicable state law.

(Ord. No. 2702, item 1, 9-19-95; Ord. No. 2854, § 1, 7-6-98; Ord. No. 2902, § 2, 4-26-99; Ord. No. 3638, § 2, 11-22-11; Ord. No. 3710, § 1, 9-17-13; Ord. No. (2022)5091, § 1, 1-3-22)

Secs. 18-3—18-12. Reserved.

ARTICLE II. FIREWORKS

Sec. 18-13. Sale prohibited.

It shall be unlawful for any person to sell or offer for sale within the corporate limits of the town any firecrackers, cannons, Roman candles, skyrockets or other fireworks, except in compliance with General Statutes, Chapter 14, Article 54.

(Ord. No. 1006, § 22, 4-6-59; Ord. No. 1171, § 1, 10-2-67; Ord. No. (2022)5091, § 1, 1-3-22)

State law reference—Sale of pyrotechnics, G.S. § 14-410.

Sec. 18-14. Discharge within town prohibited; applicability of section; penalty.

(a) It shall be unlawful to discharge, shoot, fire off or explode any firecrackers, cannons, Roman candles, skyrockets or other fireworks or explosives within the limits of the town.

(b) The provisions of this section shall not be construed to prohibit the exhibition of fireworks upon any occasion of public celebration upon permission of the mayor or the town council, and nothing herein shall prohibit the use of explosives necessary in construction or fire prevention upon

permission of the mayor or the town council and in compliance with General Statutes, Chapter 14, Article 54.

(Ord. No. 1006, § 23, 4-6-59; Ord. No. 1171, § 1, 10-2-67; Ord. No. 2296, § 3, 9-20-88; Ord. No. (2022)5091, § 1, 1-3-22)

State law reference—Use of pyrotechnics, G.S. § 14-410.

PART II

TECHNICAL ORDINANCES*

Chapter 19. Buildings and Building Regulations

***Cross references**—Fire prevention and protection, Ch. 4; housing, Ch. 7; cable television systems, § 9-51 et seq.; planning, Ch. 13.1.

State law reference—Authority to separate Code into two separate parts, the "General Ordinances" and the "Technical Ordinances," G.S. § 160A-77.

Chapter 19

BUILDINGS AND BUILDING REGULATIONS

Article I. In General

Sec. 19-1. Fire limit zone described.
Secs. 19-2—19-13. Reserved.

Article II. Buildings

Division 1. Generally

Sec. 19-14. North Carolina State Building Codes adopted.
Secs. 19-15—19-34. Reserved.

Division 2. Unsafe Buildings

Sec. 19-35. Presumption of public danger when council members act.
Sec. 19-36. General duties of building inspector.
Sec. 19-37. Duty of owner to abate unsafe conditions or demolish, remove building or structure; council members authorized to act upon owner's noncompliance.
Sec. 19-38. Notice and hearing prior to ordering removal, demolition.
Sec. 19-39. Building inspector authorized to order corrective action or demolition.
Sec. 19-40. Appeal of inspector's order authorized; procedure; effect of failure to appeal.
Sec. 19-41. Report to be filed with manager upon owner's noncompliance; disposition of report; contents.
Sec. 19-42. Town council's authority to effect remedies, cause demolition upon hearing cases; costs.
Sec. 19-43. When council to give notice of hearing; procedure.
Sec. 19-44. Willful noncompliance with orders unlawful.
Sec. 19-45. Reserved.

Division 3. Reserved

Secs. 19-46—19-55. Reserved.

Article III. Reserved

Secs. 19-56—19-77. Reserved.

Article IV. Reserved

Secs. 19-78—19-90. Reserved.

Article V. Reserved

Secs. 19-91—19-100. Reserved.

Article VI. Reserved

Secs. 19-101—19-109. Reserved.

GARNER CODE

Article VII. Erosion and Sedimentation Control

- Sec. 19-110. [Applicability and enforcement.]
- Sec. 19-111. Jurisdiction.
- Sec. 19-112. Purposes.
- Sec. 19-113. Definitions.
- Sec. 19-114. Scope and exclusions.
- Sec. 19-115. Approval of plans.
- Sec. 19-116. Permits.
- Sec. 19-117. Fees.
- Sec. 19-118. Inspections.
- Sec. 19-119. Standards.
- Sec. 19-120. Stormwater outlet protection.
- Sec. 19-121. Special Neuse River regulations.
- Sec. 19-122. Responsibility for maintenance.
- Sec. 19-123. Operation in lake or natural watercourses.
- Sec. 19-124. Appeals.
- Sec. 19-125. Enforcement and penalties.
- Sec. 19-126. Injunctive relief.
- Sec. 19-127. Civil relief.
- Secs. 19-128—19-199. Reserved.

Article VIII. Rights-of-Way

- Sec. 19-200. Definitions.
- Sec. 19-201. Registration and right-of-way occupancy.
- Sec. 19-202. Registration information.
- Sec. 19-203. Reporting obligations of registrants.
- Sec. 19-204. Permits.
- Sec. 19-205. Permit applications.
- Sec. 19-206. Issuance of permit; conditions.
- Sec. 19-207. Authority of director.
- Sec. 19-208. Work performed without a permit.
- Sec. 19-209. Revocation of permits.
- Sec. 19-210. Mapping data.
- Sec. 19-211. Corridors.
- Sec. 19-212. Damage, removal and repair of other facilities.
- Sec. 19-213. [Regulatory fees and costs.]
- Sec. 19-214. [Annual registration fee.]
- Sec. 19-215. [Remedy provisions.]
- Sec. 19-216. Abandoned facilities.
- Sec. 19-217. [Review of denial, revocation, or fee imposition.]

ARTICLE I. IN GENERAL

Sec. 19-1. Fire limit zone described.

The fire limit zone shall have as its western boundary the centerline of Purvis Street, as its eastern boundary the centerline of Griffin Street, as its northern boundary the centerline of Main Street, and its southern boundary the rear of all buildings fronting on or adjacent to Main Street between the western and eastern boundaries. (Ord. of 6-2-58)

Sec. 19-2. Reserved.

Editor's note—Ord. No. 3716, § 9, adopted Nov. 19, 2013, repealed former § 19-2, which pertained to ordinances relating to fees for permits required by zoning not affected by Code, and derived from the original codification.

Secs. 19-3—19-13. Reserved.

ARTICLE II. BUILDINGS*

DIVISION 1. GENERALLY

Sec. 19-14. North Carolina State Building Codes adopted.

The minimum standards, provisions and requirements for safe and stable design, methods of construction and usage of materials in buildings and structures erected, enlarged, altered, repaired, moved, converted to other uses or demolished, and the equipment, maintenance, use and occupancy of all buildings and structures in the town to which the state building codes apply, shall be regulated in accordance with the terms of the North Carolina State Building Codes, which are hereby adopted and incorporated in this section by reference as fully as though set forth in this section, and such amendments

***State law reference**—Building inspection, G.S. § 160A-411 et seq.

thereto as are prepared and published from time to time by the North Carolina State Building Code Council.

(Ord. No. 1180, § 2(3), (4), 5-6-68; Ord. No. 3716, § 9, 11-19-13)

Editor's note—Ord. No. 3716, § 9, adopted Nov. 19, 2013, changed the title of § 19-14 from "Building code adopted; conflicting provisions" to read as herein set out.

State law references—North Carolina State Building Code, G.S. § 143-138; authority to adopt technical codes by reference, G.S. § 160A-76(b).

Secs. 19-15—19-22. Reserved.

Editor's note—Ord. No. 3716, § 9, adopted Nov. 19, 2013, repealed former §§ 19-15—19-22, which pertained to residential building code adopted; conflicting provisions; office of building inspector created; powers, duties of building inspector; building permit required; application; issuance; issuance of permits; posting of building permit; when construction, alteration may commence; and disposition of plans, specifications filed with inspector, and derived from Ord. No. 1024, § 1(2), (5), adopted March 24, 1960; Ord. No. 1180, § 2(3), adopted May 6, 1968; Ord. No. 1197, Art. III, § 1, adopted April 22, 1969; and Ord. No. 1929, § 3, adopted June 25, 1984.

Secs. 19-23—19-34. Reserved.

DIVISION 2. UNSAFE BUILDINGS

Sec. 19-35. Presumption of public danger when council members act.

In all cases in which the town council, under authority of this division, causes the demolition and removal of any building or structure to be carried out, or directs such other remedial steps to be taken as may be necessary to abate a public nuisance and remove a fire or safety hazard, it shall be conclusively presumed that the public nuisance and the fire and safety hazard and danger to life, health or other property created and maintained by the continued presence of such building or structure in such condition as is found to exist constitutes a clear and present danger amounting to a situation of emergency involving the public health, safety and general welfare, which requires entry upon private property for the summary abatement and removal of such danger in the public interest. (Ord. No. 1197, § 9, 4-22-69)

Sec. 19-36. General duties of building inspector.

(a) Any building or structure, or part thereof, partially destroyed or otherwise, which is found by the building inspector to be in such a dilapidated state of disrepair or other substandard condition as to be dangerous to life, health or other property or to constitute a fire or safety hazard or a public nuisance shall be declared by the inspector to be unsafe. Such unsafe condition may be caused by defective construction, overloaded structural parts, decay, susceptibility to fire, exits or any other hazardous conditions or circumstances.

(b) The inspector shall have authority, and it shall be his duty, to declare all such buildings or structures unsafe and to take appropriate action to have such conditions corrected or removed. Such declaration by the inspector shall constitute an order of condemnation for the purposes of this division.

(Ord. No. 1197, § 1, 4-22-69)

Sec. 19-37. Duty of owner to abate unsafe conditions or demolish, remove building or structure; council members authorized to act upon owner's noncompliance.

Whenever any building or structure has been condemned by the building inspector pursuant to this division, and the existence of such building or structure in a dilapidated state of disrepair or other substandard condition is found and determined by the inspector or, upon appeal from or report by the inspector as hereinafter provided, or upon the town council finding conditions dangerous to life, health or other property, or upon its finding conditions which constitute a fire or safety hazard or a public nuisance, the owner of such building or structure shall be required to demolish and remove the same and remedy such conditions under the regulations and procedures herein provided; and in the event such owner fails or refuses to do so within the time directed by the inspector or by the town council, as hereinafter provided, the council may, in its judgment, cause the same to be demolished

and removed or such other steps taken as it may find to be necessary to suppress and abate the nuisance and remove the fire or safety hazard and the danger to life, health or other property found to exist, and specially assess the cost and expense of doing said work against the lot or parcel of land on which the building or structure is located.

(Ord. No. 1197, § 2, 4-22-69)

Sec. 19-38. Notice and hearing prior to ordering removal, demolition.

Before any building or structure may be ordered to be demolished and removed as provided in Section 19-37, the building inspector shall notify the owner thereof in writing, by certified or registered mail to the last known address of such owner, or by personal service of such notice by the inspector or his assistant, or by posting such notice as required in Section 19-43, that the building or structure is in such condition that it appears to constitute a fire or safety hazard or is dangerous to life, health or other property, or is a public nuisance, and that a hearing will be held before the inspector at a designated place at a time not less than ten (10) days after the date of such written notice, at which time and place the owner shall be entitled to be heard in person or by counsel upon all legal or factual questions relating to the matter and shall be entitled to offer such evidence as he may desire which is relevant or material to the questions sought to be determined or the remedies sought to be effected. If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice herein referred to shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least ten (10) days prior to the date fixed for the hearing and a notice of the hearing is published one (1) time in a newspaper having general circulation in the town at least one (1) week prior to the date fixed for such hearing. Such notice shall state the address or location of the building or structure and the time, place and purpose of the hearing.

(Ord. No. 1197, § 3, 4-22-69)

Sec. 19-39. Building inspector authorized to order corrective action or demolition.

If, after a hearing required by this division, the building inspector finds that the building or structure in question is in such a dilapidated or substandard state of disrepair as to constitute a fire or safety hazard or to be dangerous to life, health or other property, or is a public nuisance, he shall make an order in writing, directed to the owner of the building or structure, requiring the owner to remedy such conditions so found to exist by demolishing and removing the building or structure or taking such other steps as may be necessary to abate the nuisance and remove the hazards within such period, not less than sixty (60) days, as the inspector may prescribe. (Ord. No. 1197, § 4, 4-22-69)

Sec. 19-40. Appeal of inspector's order authorized; procedure; effect of failure to appeal.

The owner of any building or structure ordered by the building inspector to be demolished and removed, or any person who is directed by the inspector to take any other steps to abate a nuisance or remove hazards found by the inspector to exist contrary to the provisions of this article, shall have the right of appeal from such orders in writing to the inspector and town clerk; provided, such owner gives notice of the appeal to the inspector at the time of the hearing at which the order is made, or, within ten (10) days after such order is made. (Ord. No. 1197, § 5, 4-22-69; Ord. No. 3716, § 9, 11-19-13)

Sec. 19-41. Report to be filed with manager upon owner's noncompliance; disposition of report; contents.

In the event the owner does not appeal from the final order or direction of the building inspector requiring the building or structure to be demolished and removed pursuant to this division or the taking of such other steps as may be required to abate the nuisance and remove the hazards, or if the owner fails or refuses to comply

with such order and direction, it shall be the duty of the building inspector to file a written report thereof with the town manager, who shall cause such report to be placed on the agenda for action by the town council at its next ensuing regular meeting or to come subsequent meeting to which the council may continue the same. The inspector shall mail a copy of the report addressed to the owner. Said report shall specify the date of the meeting of the council for which the matter will be docketed for action. (Ord. No. 1197, § 6, 4-22-69)

Sec. 19-42. Town council's authority to effect remedies, cause demolition upon hearing cases; costs.

In all cases referred to in this division which reach the town council for action, either upon appeal of the owner from the ruling of the building inspector or upon report of the inspector that the owner has failed or refused to comply with his order or direction, the council shall hear the matter, and if it finds and determines that the building or structure in question is in such a dilapidated or substandard state of disrepair as to constitute a fire or safety hazard, or to be dangerous to life, health or other property, or is a public nuisance, and that the owner of the building or structure has failed or refused to abate the nuisance and has failed or refused to have the building or structure demolished and removed, or has failed or refused to take such other steps as may be necessary to abate the nuisance and remove the hazards found to exist, it may cause the demolition and removal of such building or structure to be done, or effect such other remedies as may be necessary to abate the nuisance and remove the hazards. The council may specially assess the cost of such work against the lot or parcel of land on which the building or structure was situated; and such assessment shall constitute a specific lien upon said lot or parcel of land, which may be enforced by an action instituted in the name of the town in the nature of an action to foreclose a mortgage as provided by General Statutes, Section 105-414 in the case of ad valorem taxes and local improvement assessments. (Ord. No. 1197, § 7, 4-22-69)

Sec. 19-43. When council to give notice of hearing; procedure.

In cases in which the building inspector has been unable to give the owner actual notice of hearing in the manner required in Section 19-38, and has given such notice by posting and publishing the same as authorized in Section 19-38, and the owner has failed or refused to comply with the order or direction of the inspector to demolish and remove the building or structure, or take such other remedial action as will remove the hazards, and such case is referred to the town council for action, the council shall, before taking such action, cause to be posted on the outside of the building or structure in question at least ten (10) days prior to the date fixed for the hearing, and published one (1) time in a newspaper having general circulation in the town at least one (1) week prior to the date fixed for such hearing, a written notice stating the address or location of the building or structure involved and the time, place and purpose of the hearing, and such other information as the council may deem advisable.

(Ord. No. 1197, § 8, 4-22-69)

Sec. 19-44. Willful noncompliance with orders unlawful.

It shall be unlawful for any person to willfully fail or refuse to comply with any final order or direction of the building inspector or town council made by virtue and in pursuance of this division. A violation of this section is punishable as a misdemeanor with a maximum fine of one hundred dollars (\$100.00).

(Ord. No. 1197, § 10, 4-22-69; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 19-45. Reserved.

DIVISION 3. RESERVED*

Secs. 19-46—19-55. Reserved.

***Editor's note**—Ord. No. 3716, § 9, adopted Nov. 19, 2013, repealed former Div. 3, §§ 19-46—19-55, which pertained to insulation and energy utilization equipment installation, and derived from Ord. No. 1498, §§ 1—10, adopted Dec. 5, 1977.

ARTICLE III. RESERVED†

Secs. 19-56—19-77. Reserved.

ARTICLE IV. RESERVED‡

Secs. 19-78—19-90. Reserved.

ARTICLE V. RESERVED**

Secs. 19-91—19-100. Reserved.

ARTICLE VI. RESERVED††

Secs. 19-101—19-109. Reserved.

†Editor's note—Ord. No. 3716, § 9, adopted Nov. 19, 2013, repealed former Art. III, §§ 19-56—19-65, which pertained to electricity, and derived from Ord. No. 1117, § 2(5)—(8), (10), (13), (16), adopted May 6, 1963; and Ord. No. 1929, § 4, adopted June 25, 1984.

‡Editor's note—Ord. No. 3716, § 9, adopted Nov. 19, 2013, repealed former Art. IV, §§ 19-78, 19-79, which pertained to plumbing, and derived from Ord. No. 1260, § 2, adopted Dec. 6, 1971; Ord. No. 1540, § 1, adopted Dec. 19, 1978; and Ord. No. 1929, § 5, adopted June 25, 1984.

****Editor's note**—Ord. No. (2022)5091, § 4, adopted Jan. 3, 2022, repealed former Art. V, § 19-100, which pertained to residential rental registration and derived from Ord. No. 3716, § 10, adopted Nov. 19, 2013; and Ord. No. 3225, § 1, adopted Dec. 2, 2002.

††Editor's note—Ord. No. 3716, § 10, adopted Nov. 19, 2013, repealed former Art. VI, §§ 19-101, 19-102, which pertained to construction permit fees, and derived from Ord. No. 1929, § 2, adopted June 25, 1984; Ord. No. 2357, § 6, adopted May 16, 1989; and Ord. No. 2365, § 1, adopted June 20, 1989.

ARTICLE VII. EROSION AND SEDIMENTATION CONTROL

Sec. 19-110. [Applicability and enforcement.]

(a) *Jurisdiction.* The erosion and sedimentation control regulations of this article apply within the town limits.

(b) *[Responsibility.]* The Wake County Department of Environmental Services is responsible for approval, issuance of permits related to, and enforcement of erosion and sedimentation control plans.

(Ord. No. 3460, §§ 1—3, 5-7-07)

Sec. 19-111. Jurisdiction.

(a) The erosion and sedimentation control regulations of this article apply to all of Wake County outside of the incorporated areas. However, the regulations of this article may apply within the incorporated areas of municipalities upon proper resolution by the governing bodies of the respective municipalities and agreement by the Wake County Board of Commissioners.

(b) Notwithstanding the provisions of G.S. 113A-56(a)(4) and section 19-114(a)(5), the Wake County Board of Commissioners hereby declares the intent that all the departments and agencies of the county and its contractors and subcontractors must comply with the regulations of this article when they are more restrictive than similar regulations of the North Carolina Sediment Control Commission.

(c) The department of environmental services is responsible for approval, issuance of permits related to, and enforcement of erosion and sedimentation control plans.

(Ord. No. 3460, § 10-1, 5-7-07)

Sec. 19-112. Purposes.

This erosion and sedimentation control regulations of this article are adopted for the purposes of:

- (1) Regulating certain land-disturbing activities to control accelerated erosion and sedimentation in order that water pollu-

tion from sedimentation may be controlled; that the accelerated erosion and sedimentation of lakes and natural watercourses and damage to public and private property by sedimentation be inhibited; and

- (2) Establishing procedures through which these purposes can be fulfilled.

(Ord. No. 3460, § 10-2, 5-7-07)

Sec. 19-113. Definitions.

Unless the context otherwise clearly indicates, the definitions of this section are to be used only in interpreting and administering the erosion and sedimentation control provisions of this article.

Accelerated erosion. Any increase over the rate of natural erosion as a result of land-disturbing activities.

Act. The North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it.

Active construction. Activities that contribute directly to the building of facilities including land-disturbing activities for roads, parking lots, footings, etc.

Adequate erosion control measure, structure, or device. A measure, structure or device that controls the soil material within the land areas under responsible control of the person conducting the land-disturbing activity.

Affiliate. A person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control of another person.

Being conducted. A land-disturbing activity has been initiated and permanent stabilization of the site has not been completed.

Best Management Practices. Management and structural practices designed to reduce the quantities of pollutants washed by rain and snow melt into nearby waters.

Borrow. Fill material that is required for on-site construction and is obtained from other locations or on site.

Buffer zone. A strip of land adjacent to a lake or natural watercourse, the width of which is measured from the edge of the disturbed area, with the twenty-five (25) percent of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.

Cease order. See "Stop work order."

Certificate of completion for soil erosion and sedimentation control. A certificate issued by the Wake County Department of Environmental Ser-

vices indicating that the permittee has achieved acceptable stabilization in accordance with the approved plan and has completed all work necessary on the site related to soil erosion. All land disturbance shown on the approved plan is stabilized with permanent ground cover, permanent armor, or impervious surface. All proposed roads, utilities, permanent erosion control devices, and other infrastructure are installed as per approved plans. All temporary sediment control devices required by the approved plan are removed.

Certificate of compliance for preliminary soil erosion and sedimentation control. A certificate issued by the Wake County Department of Environmental Services indicating that the erosion control devices shown on the approved plan have been constructed correctly and are operating correctly.

Commission. The North Carolina Sedimentation Control Commission.

Commissioners. The Wake County Board of Commissioners.

Complete plan. A plan that includes, but is not limited to, all items on the Wake County Soil Erosion and Sedimentation Control Checklist.

Completion of construction or development. No further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.

Contiguous. Sharing the same boundary of property.

Denuded. The removal of ground cover from, on, or above the soil surface.

Department. The North Carolina Department of Environment and Natural Resources.

Director of environmental services. The Wake County official charged with administration and enforcement of the sedimentation and erosion control regulations of this article, including the official's duly authorized agent or delegate.

Director of land resources. The Director of the Division of Land Resources of the Department of Environment and Natural Resources.

Discharge point. That point at which runoff leaves a tract of land.

District. The Wake Soil and Water Conservation District created pursuant to Chapter 139, North Carolina General Statutes.

Drainage easement. A twenty (20) foot wide minimum strip of land reserved for conveyance of stormwater required when the total drainage area exceeds four (4) lots or four (4) acres, whichever is less, generally located along rear or side lot lines, but may cross lots at such points that will not pose a hazard to persons or property.

Energy dissipater. A structure or shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.

Established farm. Means an ongoing agricultural operation as described in section 19-114(a)(1), including all such operations that qualify for the agricultural use value tax rate.

Erosion. The wearing away of land surface by the action of the wind, water, gravity, or any combination thereof.

Ground cover. Any natural vegetative growth or other material that renders the soil surface stable against accelerated erosion.

High quality waters. Those classified as such in 15A NCAC 2B.0101(e)(5) - General Procedures, which is incorporated herein by reference to include further amendments pursuant to G.S. 150B-14(c).

High quality water (HQW) zones. Areas in the coastal counties that are within five hundred seventy-five (575) feet of high quality waters and for the remainder of the state areas that are within one mile and drain to HQWs.

Lake or natural watercourse. Any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.

Land-disturbing activity. Any use of the land by any person in residential, industrial, educa-

tional, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

Local government. Any county, incorporated village, town, or city, or any combination of counties, Incorporated villages, towns and cities, acting through a joint program pursuant to the provisions of the Act.

Natural erosion. The wearing away of the earth's surface by water, wind, or other natural agent under natural environmental conditions undisturbed by humans.

Parent entity. An affiliate that directly, or indirectly through one or more intermediaries, controls another person.

Permit. The approval document allowing land-disturbing activities to be initiated. A project may be developed in phases with separate permits for each phase.

Person. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

Person conducting land-disturbing activity. Any person who may be held responsible for a violation unless expressly provided otherwise by the erosion and sedimentation control regulations of this article, the Act, or any order adopted pursuant to these regulations or the Act.

Person responsible for the violation.

- (1) The developer or other person who has or holds himself out as having financial or operational control over the land-disturbing activity; and/or
- (2) The landowner or person in possession or control of the land when they have directly or indirectly allowed the land-disturbing activity or have benefited from it or have failed to comply with any provision of the erosion and sedimentation control regulations of this article, the Act,

or any order adopted pursuant to these regulations or the Act as imposes a duty upon the person; and/or

- (3) The contractor or subcontractor who is authorized to perform land-disturbing work for the landowner.

Phase of grading. One of two types of grading, rough or fine.

Plan. Erosion and sedimentation control plan.

Protective cover. Natural or artificial ground cover of grass, trees, shrubs, or mulch sufficient to reduce erosion potential.

Sediment. Solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

Sedimentation. The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.

Siltation. Sediment resulting from accelerated erosion which can be settled or removed by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.

Spoils. Refuse material removed from an excavation.

Stabilization. The process of restoring a site with ground cover or armor to resist soil erosion from the forces of air, wind, or water.

Stop work order. A written order to stop work, issued by the director of environmental services, upon determining that work is being conducted in violation of this article.

Storm drainage facilities. The system of inlets, conduits, channels, ditches, and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

Stormwater runoff. The direct runoff of water resulting from precipitation in any form.

Subsidiary. An affiliate that is, directly or indirectly, through one or more intermediaries, controlled by another person.

Ten-year storm. This means a storm with only a ten (10) percent chance of occurring in any year, or the size beyond which larger storms would not occur more often than an average of once in ten (10) years.

Tract. All contiguous land and bodies of water in one ownership, or contiguous land and bodies of water in diverse ownership being developed as a unit, although not necessarily all at one time.

Twenty-five year storm. This means a storm with only a four (4) percent chance of occurring in any year, or the size beyond which larger storms would not occur more often than an average of once in twenty-five (25) years.

Uncovered. The removal of ground cover from, on, or above the soil surface.

Undertaken. The initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of land.

Velocity. The average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel is defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.

Wake County Department of Environmental Services. The Wake County Department of Environmental Services or successor agencies.

Wake County Soil Erosion and Sedimentation Control Checklist. A form containing the list of items required in order for a plan to be considered complete for review.

Waste. Surplus soil or earth materials resulting from on-site construction and disposed of at other locations.

Working days. Days exclusive of Saturday, Sunday and legal holidays during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.
(Ord. No. 3460, § 10-3, 5-7-07)

Sec. 19-114. Scope and exclusions.

(a) The erosion and sedimentation control regulations of this article apply to land-disturbing activities undertaken by any person, with the following exclusions:

- (1) Land-disturbing activities undertaken on established farms for the production of plants and animals useful to man by not limited to: forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including the breeding and grazing of any or all such animals; bees and apiary products; and fur animals.
- (2) Land-disturbing activities undertaken on forestland for the production and harvesting of timber and timber products and which are conducted in accordance with Forest Practice Guidelines Related to Water Quality (best management practices) as adopted by the department. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with Forest Practice Guidelines Related to Water Quality, the provisions of this article apply to such activity on the tract.
- (3) Where land disturbing activities are undertaken on agricultural land for the production of plants and animals useful to man; constructing farm roads, paths, or ponds; or in the interest of public safety for the duration of an emergency, the owner of the property may be required to file an application for exemption. The application for exemption must be filed with the Wake County Soil and Water Conservation District Board of Supervisors (hereafter referred to as the district board). The sedimentation and erosion

control section, or its designee, must forward any pertinent information regarding the application to the district board. The district board must review and grant or deny the application within fifteen (15) working days. The district board must provide its decision in writing to the applicant and the director of environmental services or their designee. The applicant has thirty (30) days after the date of approval to file a conservation plan with the district board. Copies of the plan must be provided to the applicant and the director of environmental services, or their designee. The conservation plan must be implemented according to schedule. Failure to meet the conditions of the exemption constitutes a violation of the erosion and sedimentation control regulations of this article and will be retroactive to the granted date of the original exemption.

- (4) Land-disturbing activities undertaken by persons as defined in G.S. 113 A-52(8) who are otherwise regulated by the provisions of the Mining Act of 1971 G.S. 74-76 through G.S. 74-74.
- (5) Land-disturbing activities over which the state has exclusive regulatory jurisdiction as provided in G.S. 113-56(a). Such activities include:
 - a. Land-disturbing activities conducted by the state.
 - b. Land-disturbing activities conducted by the United States.
 - c. Land-disturbing activities conducted by persons having the power of eminent domain.
 - d. Land-disturbing activities conducted by local governments.
 - e. Land-disturbing activities funded in whole or in part by the state or United States.

(b) The erosion and sedimentation control regulations of this article expressly apply to the following land-disturbing activities:

- (1) Temporary access and haul roads, other than public roads, constructed or used in

connection with any land-disturbing activity are considered a part of such activity.

- (2) When the person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, and waste areas for surplus materials other than landfills regulated by the department of environment, health, and natural resources, division of solid waste management, or Wake County under the solid waste ordinance, will be considered as part of the land-disturbing activity where the borrow material is being used or from which the waste material originated. When the person conducting the land-disturbing activity is not the person obtaining borrow and/or disposing of the waste, these areas are considered a separate land-disturbing activity.
 - (3) Land-disturbing activities connected with utility construction that is not exempt under section 19-114(a)(5).
- (Ord. No. 3460, § 10-4, 5-7-07)

Sec. 19-115. Approval of plans.

(a) No person may initiate any land-disturbing activity that covers more than one contiguous acre without having an approved erosion control plan and a land-disturbance permit issued by the county. No person may initiate any land-disturbing activity if more than one contiguous acre is to be disturbed unless, thirty (30) or more days prior to initiating the activity, an erosion and sedimentation control plan is filed with the county in accordance with section 19-115 and section 19-116. Wake County must forward to the Director of the N.C. DENR Division of Water Quality a copy of each plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract. However, this provision does not restrict the initiation of land-disturbing activities when the plan is approved and the permit issued in less than thirty (30) days from the initial submission.

(b) Persons conducting land disturbance activities that disturb one acre or more must file the appropriate number of copies of an Erosion Control Plan with Wake County, at least thirty (30) days prior to the anticipated date for initiating such activity. Once plans are approved, five (5) copies of the plan will need to be provided to Wake County, one of which will be required to be on the job site until the project is closed out.

(c) The plan required by this section must contain at least all of the items specified on the Wake County Erosion and Sedimentation Control Checklist, including administrative fees, architectural and engineering drawings, maps, assumptions, one set of calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the erosion and sedimentation control regulations of this article. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation may be obtained from Wake County Department of Environmental Services upon request.

- (1) Any plan submitted for a land-disturbing activity for which the North Carolina Environmental Policy Act requires an environmental document must be deemed incomplete until a complete environmental document is available for review. The director of environmental services or designee must promptly notify the person submitting the plan that the thirty (30) day time limit for review of the plan pursuant section 19-115(e) will not begin until a complete environmental document is available for review.
- (2) An authorized statement of financial responsibility and ownership must be submitted with erosion control plans. The financially responsible party for the land-disturbing activity or party's authorized agent must sign this statement. The statement must include the mailing and street addresses of the principal place of business of the financially responsible party and of the owner of the land or their registered agent. A post office box is not an acceptable mailing address. If the fi-

nancially responsible party is not a resident of Wake County, a Wake County agent must be designated in the statement for the purpose of receiving a notice of compliance or non-compliance with the plan, this article, or rules, or orders adopted issued pursuant to the erosion and sedimentation control regulations of this article.

(d) An erosion and sedimentation control plan may be disapproved if the plan fails to adequately address the following control objectives:

- (1) *Identify critical areas.* On-site areas that are subject to severe erosion, and off-site damage from erosion and/or sedimentation, are to be identified and receive special attention.
- (2) *Limit time of exposure.* All land-disturbing activity is to be planned and conducted to limit exposure to the shortest feasible time.
- (3) *Limit exposed areas.* All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time.
- (4) *Control surface water.* Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.
- (5) *Control sedimentation.* All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage.
- (6) *Manage stormwater runoff.* When the increase in the velocity of storm water runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, plans are to include measures to control the velocity at the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

(e) The Wake County Department of Environmental Services, within thirty (30) days of receipt of each complete soil erosion and sedimentation

control plan, must notify the person submitting the plan that it has been approved, approved with modifications, or disapproved. No plan may be approved unless and until it complies with all applicable state and county regulations for soil erosion and sediment control. Failure to approve or disapprove a complete erosion and sedimentation control plan within thirty (30) days of receipt constitutes an action of approval. Denial of the plan must specifically state in writing the reasons for denial. Upon resubmission, the county must approve or deny the revised plan within fifteen (15) days of receipt, or it is deemed approved. If a plan has been disapproved, the applicant has twelve (12) months to submit revised plans addressing the reasons for disapproval or the plan is deemed null and void.

(f) An erosion control plan may be disapproved upon finding that an applicant, or any parent or subsidiary corporation if the applicant is a corporation:

- (1) Is conducting or has conducted land-disturbing activity without an approved plan, or has received a notice of violation on a plan previously approved and has not complied with the notice within the time specified in the notice.
- (2) Has failed to pay a civil penalty assessed pursuant to the Act or a local ordinance adopted pursuant to the Act which is due and for which no appeal is pending.
- (3) Has been convicted of a misdemeanor pursuant to a G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to the Act (An applicant's criminal record may be considered for only the two (2) years prior to the application date); or
- (4) Has failed to substantially comply with state rules or local ordinances and regulations adopted pursuant to the Act.

(g) If a proposed project is disapproved, Wake County must notify the Director of the N.C. State Division of Land Resources within ten (10) business days as to the specific reasons for the disapproval.

(h) The approved construction plan must be prominently displayed onsite until all construction is complete, all permanent sedimentation and erosion control measures are installed and the site has been stabilized. A copy of the approved plan must be kept on file at the job site.

(i) Application for amendment of an erosion control plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as the Wake County Department of Environmental Services approves the said amendment, the land-disturbing activities may not proceed except in accordance with the erosion control plan as originally approved.

(j) If the county, whether upon review of a plan or upon inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, or the plan is inadequate to meet the requirements of this article, the county may require a revised plan. Pending the preparation of the revised plan, work must stop or continue only under conditions outlined by the appropriate authority.

(k) The county may require preparation and approval of an erosion control plan for land-disturbing activities that are less than one acre in surface area where sediment control measures are needed to protect against off-site damages.

(l) The county may require preparation and approval of an erosion control plan for land-disturbing activities applying for an application for exemption where sediment control measures are needed to protect against off-site damages as documented by the county's authorized representative.

(m) Any person engaged in land-disturbing activity, who fails to file a plan in accordance with the erosion and sedimentation control regulations of this article, or who conducts a land-disturbing activity except in accordance with provisions of an approved plan will be deemed in violation of the erosion and sedimentation control regulations of this article.

(n) No person may initiate a land-disturbing activity until notifying the agency that issued the plan approval of the date that the land-disturbing activity will begin.

(o) The approving authority requires a pre-construction conference prior to issuance of the land-disturbing permit.

(p) The North Carolina Sedimentation Control Commission may require Wake County to submit a copy of an erosion and sedimentation control plan to the Wake County Soil and Water Conservation District.

(Ord. No. 3460, § 10-5, 5-7-07)

Sec. 19-116. Permits.

(a) Except as provided in section 19-114, it is unlawful to conduct any land-disturbing activity without first obtaining a permit from the county. Permits may be obtained upon submitting a soil erosion and sedimentation control plan and the application, fees and financial responsibility statement prescribed by the county and by obtaining approval of the proposed construction plan which includes the soil erosion and sedimentation control plan. No permit may be issued until such time as the county is assured that the proposed land-disturbing activity will be carried out in accordance with the proposed soil erosion and sedimentation control plan. No permit will be issued on property contiguous to a site owned by the same individual, corporation, etc. that is in violation of the erosion and sedimentation control regulations of this article until that violation is corrected.

(b) No permit is required for the following land-disturbing activities:

- (1) Those done for the purpose of fighting fires if these activities are essential to protect human life.
- (2) Land-disturbing activities by any person or persons that do not exceed one acre in surface area.

(c) An approved plan is valid for two (2) calendar years. If the land-disturbing permit has not been obtained within the two-year period, the approval becomes null and void.

(d) The land-disturbing permit is valid for two (2) calendar years. If no construction activity has begun within the two-year period, the permit becomes null and void. If construction activity has begun but the certificate of completion has not been issued within the two (2) years, the permit must be renewed.

(e) The land-disturbing permit may be renewed in one (1) year increments by submitting a request for a permit extension thirty (30) days prior to the expiration date. The applicant must address any code or ordinance revisions on the plans and render any permit fees that were originally paid. Any change of ownership must be reflected in a revised financial responsibility form.

(f) Failure to renew the permit, in accordance with this section, is the same as failure to submit an erosion control plan in accordance with section 19-116(a) and may be subject to a civil penalty of up to two thousand five hundred dollars (\$2,500.00) per day. Any person who is subject to civil penalty under this subsection may be subject to additional civil penalties for violation of any other provisions of this article, or rules or orders adopted or issued pursuant to the erosion and sedimentation control regulations of this article.

(g) All site improvements, as shown on the approved plan, must be completed by the end of the one (1) year renewal period and before the certificate of completion is issued, if the permit is not renewed for an additional one (1) year period as per section 19-116(e). Any person who fails to meet the conditions of the renewal will be subject to a civil penalty as set forth in section 19-116(f).

(h) If the property associated with the approved plan is sold in whole or in part before all conditions of the approved plan are met, the permit holder must provide notice to the new owner/s of conditions of the land disturbance permit and provide Wake County Environmental Services with revised financial responsibility forms. (Ord. No. 3460, § 10-6, 5-7-07)

Sec. 19-117. Fees.

The Wake County Board of Commissioners is authorized to establish fees to be charged for administration of these erosion and sedimentation control regulations.
(Ord. No. 3460, § 10-7, 5-7-07)

Sec. 19-118. Inspections.

(a) Agents and officials of the county may inspect the sites of land-disturbing activities for which permits have been issued at reasonable times to determine whether the activities are being conducted in accordance with the plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment resulting from land-disturbing activities. Notice of the county's right to make such inspections must be included in the certificate of plan's approval.

(b) If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to obtain an approved plan or comply with the approved plan, a notice of violation must be served upon that person by certified mail, registered mail, or other means reasonably calculated to give actual notice. The notice must be issued by the director of the department of environmental services or designee and must set forth the measures necessary to achieve compliance with the plan and must state the time within which such measures must be completed. The notice must also state that if the person engaged in the land-disturbing activities fails to comply, penalties may be assessed from the first day of the violation.

(c) The county has the power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity. No person may refuse entry or access to any authorized representative or agent for the county who requests entry for purposes of inspections, and presents appropriate credentials, nor may any person obstruct,

hamper, or interfere with any such representatives while in the process of carrying out their official duties.

(d) A certificate of compliance for preliminary soil erosion and sedimentation control must be issued indicating that initial soil erosion and sedimentation controls have been installed. This certificate must be issued prior to the approval by the county of an application for building construction in the county, in any of the incorporated areas of the county, or extraterritorial jurisdictional areas of the municipalities of the county subject to the erosion and sedimentation control regulations of this article.

(e) A certificate of completion must be issued when inspections indicate that all conditions of the approved land disturbance permit are met and all disturbed areas are stabilized with permanent ground cover, permanent armor, or impervious surface. All proposed roads, utilities, permanent erosion control devices, and other infrastructure has been installed as per approved plans. All temporary sediment control devices required by the approved plan are removed. Individual building lots that involve disturbing less than one acre are governed by section 19-119(f).

(f) Once a certification of completion is issued on an approved plan involving a proposed public road dedication and a petition for North Carolina Department of Transportation acceptance is submitted to Wake County Environmental Services, notification must be mailed to the North Carolina Division of Highways District 1 Office detailing that the project has been issued a certification of completion. This notification should describe the project in detail with publicly dedicated streets described by name and approximate length.

(g) Any land disturbing activity will be the responsibility of the individual building lot owners, and failure to control project against off site damage as documented by the county's authorized representative will be deemed a violation of the erosion and sedimentation control regulations of this article. A driveway with a minimum ten (10) foot wide by thirty (30) foot long gravel construction pad or equal will be required, in addition to the installation of silt fence on the low sides of the lot, for each building lot when the

initial footing inspection is conducted by the building inspections division. The Wake County Sedimentation and Erosion Control Section will approve the type of silt fence that will be accepted. Seeding and mulching of any applicable disturbed area is required. Areas within twenty-five (25) feet of the edge of pavement or gravel of the road must be stabilized before the issuance of a certificate of occupancy.

(h) The county may require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.

(i) If through inspections the county determines that significant erosion or sedimentation is occurring as a result of land-disturbing activity, despite application and maintenance of all protective practices required by the approved soil erosion and sedimentation control plan, the person conducting the land-disturbing activity will be required by the director of the department of environmental services or authorized representative to take additional protective action.
(Ord. No. 3460, § 10-8, 5-7-07)

Sec. 19-119. Standards.

(a) Persons conducting land-disturbing activities must take all reasonable measures to protect all public and private property from damage caused by such activities. All uncovered areas existing on June 3, 1974, which resulted from land-disturbing activities, and exceed one contiguous acre, and are subject to continued accelerated erosion, and are causing off-site damage from sedimentation, must be provided with a ground cover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off-site sedimentation. The county will serve upon the financially responsible party a written notice of violation by certified mail or other means reasonably calculated to give actual notice. The notice must be issued by the director of environmental services or designee and must set forth the measures necessary to achieve compliance with the erosion and sedimentation control regulations of this article and must state the time within which such measures must be completed. The notice must also state that if the person

engaged in the land-disturbing activities fails to comply within the time specified, enforcement action must be initiated. In determining the measures required and the time allowed for compliance, the director of environmental services or designee must take into consideration the economical feasibility, technology, and quantity of work required, and must set reasonable and attainable time limits for compliance. Absence of the landowner from the area or country is not a mitigating factor for failure to comply within the time frame specified. The county reserves the right to require preparation and approval of an erosion control plan in any instance wherein extensive control measures are required.

(b) Land disturbing activities of one acre or more will require an approved plan and a land disturbance permit as per section 19-116.

(c) Developer or builders conducting land-disturbing activities on individual lots of less than one acre during the development process must take all reasonable measures to protect all public and private property from damage caused by such activities. All uncovered areas that existed on January 17, 2006, that resulted from land-disturbing activities, and are subject to continued accelerated erosion, and are causing off-site damage from sedimentation, must be provided with a ground cover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off-site sedimentation. The property owner or agent must be given notice of responsibility of compliance at the issuance of a building permit for said lot. The county will serve upon the landowner and/or person responsible for the violation a written notice of violation by certified mail or other means reasonably calculated to give actual notice. The notice must be issued by the director of environmental services or authorized agent and must set forth the measures necessary to achieve compliance with the erosion and sedimentation control regulations of this article.

(d) Except as otherwise expressly provided in this article, all areas uncovered after June 3, 1974, must be provided with protective cover within sixty (60) days after commencement of land-disturbing activities, unless an extension of

time is granted, provided that in no instance may the establishment of protective cover be delayed more than fifteen (15) working days or ninety (90) calendar days, whichever period is shorter after the completion of any disturbance of land upon which further active construction is not being undertaken. All slopes must be provided with protective cover within twenty-one (21) calendar days after completion of any phase or grading.

(e) During construction, the planned soil erosion and sedimentation control practices and devices must be employed to restrict sedimentation soil losses from each land-disturbing site in accordance with plans approved by the Wake County Department of Environmental Services Sedimentation & Erosion Control Section. Such erosion and sedimentation control measures, structures, and devices must be so planned, designed, and constructed as to provide protection from the calculated maximum peak rate of runoff from the ten-year storm. Runoff rates must be calculated using the procedures in the USDA-Natural Resources Conservation Services "National Engineering Field Manual", or other acceptable calculation procedures.

(f) All soil erosion and sedimentation control plans and measures must conform to the minimum applicable standards specified in North Carolina's Erosion and Sedimentation Control Planning and Design Manual. Erosion control devices must be installed to prevent any offsite sedimentation for any construction site regardless of the size of the land disturbance.

(g) Land-disturbing activities to be conducted in sensitive watersheds as designated by the North Carolina Department of Environment and Natural Resources, Division of Water Quality will be designed as follows:

- (1) Uncovered areas in high quality water (HQW) zones must be limited at any time to a maximum total area within the boundaries of the tract of twenty (20) acres. Only the portion of the land-disturbing activity within a HQW zone is governed by this rule. Larger areas may be uncovered within the boundaries of the tract with the written approval of the director of environmental services or designee/manager of the sedimentation and erosion control section.
- (2) Erosion and sedimentation control measures, structures, and devices within HQW zones must be so planned, designed and constructed to provide protection from the runoff of the 25-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agricultural, Natural Resources Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.
- (3) Sediment basins within HQW zones must be designed and constructed such that the basin will have a settling efficiency of at least seventy (70) percent for the forty (40) micron (0.04 mm) size soil particle transported into the basin by the runoff of that 2-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Natural Resources Conservation Services "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or in the United States or any generally recognized organization or association.
- (4) Newly constructed open channels in HQW zones must be designed and constructed with side slopes no steeper than two (2) horizontal to one (1) vertical if a vegetative cover is used for stabilization unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices or other acceptable ditch liners. In any event, the angle for side slopes must be sufficient to restrain accelerated erosion.
- (5) Ground cover sufficient to restrain erosion must be provided for any portion of a

land-disturbing activity in a HQW zone within fifteen (15) working days or sixty (60) calendar days following completion of construction or development, whichever period is shorter. It is recommended that tree and brush debris be chipped and distributed as mulch on site to further stabilize the project during construction. Application rates must be at a rate of six (6) to nine (9) tons per acre and distributed in layers of one-half ($\frac{1}{2}$) to one and one-half ($1\frac{1}{2}$) inches thick. Care should be taken to keep the chipped material fifty (50) feet away from any water body, including wellheads.

(h) The angle for graded slopes and fills may not be greater than the angle that can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within twenty-one (21) calendar days of completion of any phase or grading, be planted or otherwise provided with ground cover, devices, or structures sufficient to restrain erosion.

(Ord. No. 3460, § 10-9, 5-7-07)

Sec. 19-120. Stormwater outlet protection.

(a) All land-disturbing activities must be planned and conducted such that the velocity of stormwater runoff in the receiving watercourse at the point of discharge resulting from a 10-year storm after development may not exceed the greater of:

- (1) The velocity as determined from the table of section 19-120(d), or
- (2) The velocity in the receiving watercourse determined for the 10-year storm prior to development.

(b) If conditions (1) or (2) of section 19-120(a) cannot be met, then the receiving watercourse to and including the discharge point must be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the "prior to development" velocity by ten (10) percent.

(c) This rule does not apply where it can be demonstrated that stormwater discharge velocities will not create an erosion problem in the receiving watercourse.

(d) The following is a table for maximum permissible velocity for stormwater discharges:

<i>Material</i>	<i>Maximum Stormwater Discharge Velocities</i>	
	<i>Feet per Second</i>	<i>Meters per Second</i>
Fine sand (noncolloidal)	2.5	0.8
Sandy loam (noncolloidal)	2.5	0.8
Silt loam (noncolloidal)	3.0	0.9
Ordinary film loam	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (noncolloidal)	5.0	1.5
Graded, silt to cobbles (colloidal)	5.5	1.5
Alluvial silts (noncolloidal)	3.5	1.7
Alluvial silts (colloidal)	5.0	1.1
Coarse gravel (noncolloidal)	6.0	1.5
Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8

For sinuous channels multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.

(e) Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives include:

- (1) Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious.

- (2) Avoid increases in surface runoff volume and velocity using vegetated or roughened swales or waterways in lieu of closed drains and high velocity paved sections.
- (3) Provide energy dissipators at outlets of storm drainage facilities to reduce flow velocities at the point of discharge. These may range from simple rip rapped sections to complex structures.
- (4) Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining.
- (5) Upgrade or replace the receiving device structure, or watercourse such that it will receive and conduct the flow to a point where it is no longer subject to degradation from the increased rate of flow or increased velocity.

(Ord. No. 3460, § 10-10, 5-7-07)

Sec. 19-121. Special Neuse River regulations.

(a) 15A NCAC 2B.0233 has been adopted with changes as published 12:6 NCR 462-479 (Subchapter 2b - Surface Water And Wetlands Standards, Monitoring Section .0200 - Classifications And Water Quality Standards Applicable To Surface Waters And Wetlands of North Carolina .0233 Neuse River Basin: Nutrient Sensitive Waters Management Strategy: Protection And Maintenance of Riparian Areas With Existing Forest Vegetation).

(b) The following is the management strategy for maintaining and protecting riparian areas in the Neuse River Basin (all plans must meet the requirements of this management strategy or receive an exemption from North Carolina Department of Environment and Natural Resources, Division of Water Quality):

- (1) Riparian areas must be protected and maintained in accordance with the Neuse River regulations of this section on all side of surface waters in the Neuse River Basin (intermittent streams, perennial streams, lakes, ponds, and estuaries) as indicated on the most recent versions of United States Geological Survey 1:24,000 scale (7.5 minute quadrangle) topographic

maps or other site-specific evidence. The regulations of this section only apply to riparian areas where forest vegetation is established in Zone 1 as of July 22, 1997. Forest vegetation, as defined in 15A NCAC2B. 0202, of any width in Zone 1 must be protected and maintained in accordance with the Neuse River regulations of this section. The Neuse River regulations of this section do not establish new buffers in riparian areas. Exceptions to the Neuse River regulations for riparian areas are described in section 19-121(b)(2)a.—h. Maintenance of the riparian areas should be such that, to the maximum extent possible, sheet flow of surface water is achieved. The Neuse River regulations of this section specify requirements that must be implemented in riparian areas to ensure that the pollutant removal functions of the riparian area are protected and maintained.

- (2) The following water bodies and land uses are exempt from the riparian area protection requirements:
 - a. Ditches and manmade conveyances other than modified natural streams;
 - b. Areas mapped as intermittent streams, perennial streams, lakes, ponds, or estuaries on the most recent versions of United States Geological Survey 1:24,000 scale (7.5 minute quadrangle) topographic maps where no perennial water body, intermittent water body, or lake, pond or estuary actually exists on the ground;
 - c. Ponds and lakes created for animal watering, irrigation, or other agricultural uses that are not part of a natural drainage way this is classified in accordance with 15A NCAC 2B.0100;
 - d. Water dependent structures as defined in 15A NCAC2B.0202, provided that they are located, designed, constructed and maintained to provide maximum nutrient re-

- moval, to have the least adverse effects on aquatic life and habitat and to protect quality;
- e. The following uses may be allowed where no practical alternative exists. A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters. Also, these structures must be located, designed, constructed, and maintained to have minimal disturbance, to provide maximum nutrient removal and erosion protection, to have the least adverse effects on aquatic life and habitat, and to protect water quality to the maximum extent practical through the use of best management practices.
 1. Road crossings, railroad crossings, bridges, airport facilities, and utility crossings may be allowed if conditions specified in section 19-121(b)(2)e. are met.
 2. Stormwater management facilities and ponds, and utility construction and maintenance corridors for utilities such as water, sewer or gas, may be allowed in Zone 2 of the riparian area as long as the conditions specified in section 19-121(b)(2)e. are met and they are located at least thirty (30) feet from the top of bank or mean high water line. Additional requirements for utility construction and maintenance corridors are listed in section 19-121(b)(2)f.
 - f. A corridor for the construction and maintenance of utility lines, such as water, sewer or gas, (including access roads and stockpiling of materials) may run parallel to the stream and may be located within Zone 2 of the riparian area, as long as no practical alternative exists and they are located at least thirty (30) feet from the top of bank or mean high water line and best management practices are installed to minimize runoff and maximize water quality protection to the maximum extent practicable. Permanent, maintained access corridors must be restricted to the minimum width practicable and may not exceed ten (10) feet in width except at manhole locations. A ten (10) feet perpendicular vehicle turnaround is allowed provided they are spaced at least five hundred (500) feet apart along the riparian area.
 - g. Stream restoration projects, scientific studies, stream gauging, water wells, passive recreation facilities such as boardwalks, trails, pathways, historic preservation and archaeological activities are allowed, provided that they are located in Zone 2 and are least thirty (30) feet from the top of bank or mean high water line and are designed, constructed and maintained to provide the maximum nutrient removal and erosion protection, to have the least adverse effects on aquatic life and habitat, and to protect water quality to the maximum extent practical through the use of best management practices. Activities that must cross the stream or be located within Zone 1 are allowed as long as all other requirements of this subsection are met.
 - h. Stream crossings associated with timber harvesting are allowed if performed in accordance with the Forest Practices Guidelines Related to Water Quality (15ANCAC 1J .0201—.0209).
- (c) The protected riparian area have two (2) zones as follows:
- (1) Zone 1 is intended to be an undisturbed area of forest vegetation. Any forest veg-

etation, as defined in Rule .0202 of 15A NCAC 2B, in Zone 1 as of July 22, 1997 must be maintained and protected in accordance with this section.

- a. *Location of Zone 1:* Zone 1 begins at the top of bank for intermittent streams and perennial streams and extends landward a distance of thirty (30) feet on all sides of the water body, measured horizontally on a line perpendicular to the water body. For all other water bodies, Zone 1 begins at the top of bank or mean high water line and extends landward a distance of thirty (30) feet, measured horizontally on a line perpendicular to the water body.
- b. *The following practices and activities are allowed in Zone 1:*
 1. Natural regeneration of forest vegetation and planting vegetation to enhance the riparian area if disturbance is minimized, provided that any plantings should primarily consist of locally native trees and shrubs.
 2. Selective cutting of individual trees of high value in the outer twenty (20) feet of Zone 1, provided that the basal area (measured at 12-inch diameter at breast height) remains at or above 0.52 square feet per running feet of the over twenty (20) feet of Zone 1, as measured along the bank of the stream or water body. Limited mechanized equipment is allowed in this area.
 3. Horticultural or silvicultural practices to maintain the health of individual trees.
 4. Removal of individual trees that are in danger of causing damage to dwellings, other structures or the stream channel.
 5. Removal of dead trees and other timber cutting techniques nec-

essary to prevent extensive pest or disease infestation if recommended by the director, division of forest resources and approved by the director, division of water quality.

6. Ongoing agricultural operations provided that existing forest vegetation is protected and requirements in Rules .0236 and .0238 of 15A NCAC 2B are followed.
- c. *The following practices are not allowed in Zone 1:*
 1. Land-disturbing activities and placement of fill and other materials, other than those allowed in section 19-121(b)(2) and section 19-121(c)(1), that would disturb forest vegetation, as defined in Rule .0200 of 15A NCAC 2B;
 2. New development, except as provided in subsections 19-121(b)(2)d., e. and f.
 3. New on-site sanitary sewage systems that use ground adsorption;
 4. The application of fertilizer; and
 5. Any activity that threatens the health and function of the vegetation including, but not limited to, application of chemicals in amounts exceeding the manufacturer's recommended rate, uncontrolled sediment sources on adjacent lands, and the creation of any areas with bare soil.
- (2) Vegetation in Zone 2 must consist of a dense ground cover composed of herbaceous or woody species that provides for diffusion and infiltration of runoff and filtering of pollutants.
 - a. *Location of Zone 2:* Zone 2 begins at the outer edge of Zone 1 and extends landward a minimum of 20 feet as measured horizontally on a line per-

pendicular to the water body. The combined minimum width of Zones 1 and 2 must be at least fifty (50) feet on all sides of the water body.

- b. The following practices and activities are allowed in Zone 2 in addition to those allowed in Zone 1:

1. Periodic moving and removal of plant products such as timber, nuts, and fruit is allowed on a periodic basis provided the intended purpose of the riparian area is not compromised by harvesting, disturbance, or loss of forest or herbaceous ground cover.
2. Forest vegetation in Zone 2 may be managed to minimize shading on adjacent land outside the riparian area if the water quality function of the riparian area is not compromised.
3. On-going agricultural operations are allowed provided that requirements of Rules .0236 and .0238 of 15A NCAC 2B are followed.

- c. The following practices and activities are not allowed in Zone 2:

1. Land disturbing activities and placement of fill and other materials, other than those allowed in section 19-121(b)(2) and section 19-121(c)(2);
2. New development, except as provided in section 19-121(b)(2)e. and f.;
3. New on-site sanitary sewage that use ground adsorption;
4. The application of fertilizer; and
5. Any activity that threatens the health and function of the vegetation including, but not limited to, application of chemicals in amounts exceeding the manufacture's recommended rate, uncontrolled sediment

sources on adjacent lands, and the creation of any area with bare soil.

- d. Timber removal and skidding of trees must be directed away from the watercourse or water body. Skidding must be done in a manner to prevent the creation of ephemeral channels perpendicular to the water body. Any tree removal must be performed in a manner that does not compromise the intended purpose of the riparian area and is in accordance with the Forest Practices Guidelines Related to Water Quality (15A NCAC 1J .0201—.0209).

- e. Maintenance of sheet flow in Zones 1 and 2 is required in accordance with this subsection.

1. Sheet flow must be maintained to the maximum extent practical through dispersing concentrated flow and/or re-establishment of vegetation to maintain the effectiveness of the riparian area.
2. Concentrated runoff from new ditches and manmade conveyances must be dispersed into sheet flow before the runoff enters Zone 2 of the riparian area. Existing ditches and manmade conveyances, as specified in section 19-121(b)(2)a., are exempt from this requirement; however, care should be taken to minimize pollutant loading through these existing ditches and manmade conveyances from fertilizer application or erosion.
3. Periodic corrective action to restore sheet flow should be taken by the landowner if necessary to impede the formation of erosion gullies which allow concentrated flow to bypass treatment in the riparian area.

- f. Periodic maintenance of modified natural streams such as canals is allowed provided that disturbance is minimized and the structure and function of the riparian area is not compromised. A grassed travel way is allowed on one side of the water body when alternative forms of maintenance access are not practical. The width and specifications of the travel way must be limited to only that needed for equipment access and operation. The travel way must be located to maximize stream shading.
- g. If a local government has been issued a municipal separate stormwater sewer system permit or has been delegated to implement a local stormwater program, then the local government must ensure that the riparian areas to be protected are, as a standard practice, recorded on new or modified plats.
- h. Where the standards and management requirements for riparian areas are in conflict with other laws, regulations, and permits regarding streams, steep slopes, erosive soils, wetlands, floodplains, forest harvesting, surface mining, land disturbance activities, development in Coastal Area Management Act Areas of Environmental Concern, or other environmental protection areas, the more protective applies.
- i. Where application of the regulations of this section would prevent all reasonable uses of a lot platted and recorded before June 3, 1974, a variance may be granted by the environmental management commission if it finds that:
 - 1. Practical difficulties or unnecessary hardships would result in strict application of applicable regulations.
 - 2. Such difficulties or hardships result from conditions which are peculiar to the property involved; and

- 3. The general purpose and intent of the regulations would be preserved, water quality would be protected and substantial justice would be done if the variance were granted.

(Ord. No. 3460, § 10-11, 5-7-07)

Sec. 19-122. Responsibility for maintenance.

(a) During the development of a site, the person conducting the land-disturbing activity must install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of this article, the Act, or any order adopted pursuant to the erosion and sedimentation control regulations of this article or the Act. After site development, the land owner or person in possession or control of the land must install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

(b) It is a violation of the erosion and sedimentation control regulations of this article for any persons, companies or corporations leave mud, dirt, dust or other material upon the streets, sidewalks, greenways, or other travel ways as a result of the use of trucks, construction equipment, or machinery that is considered to be a hazard to public safety or determined to be unreasonably muddy.

(Ord. No. 3460, § 10-12, 5-7-07)

Sec. 19-123. Operation in lake or natural watercourses.

Land-disturbing activity in connection with construction in, on, over, adjacent to, or under a lake or natural watercourse must be planned and conducted in such a manner as to minimize the extent and duration of disturbance of the stream channel. The relocation of a stream, where relocation is an essential part of the proposed activity must be planned and executed so as to minimize changes in the stream flow characteristics, except when justification or significant alteration to flow characteristics is provided.

(Ord. No. 3460, § 10-13, 5-7-07)

Sec. 19-124. Appeals.

(a) If any proposed erosion control plan is disapproved or modified by the county the person submitting the plan is entitled to a public hearing before the director of environmental services if such person submits written demand for a hearing within fifteen (15) days after receipt of written notice of the disapproval or modification.

(b) Any hearing held pursuant to section 19-124(a) must be conducted within thirty (30) days after receipt of the request. Notice of such hearing must be published, at least once, in a local newspaper not less than seven (7) days before the date of the hearing.

(c) The director of the department of environmental services must make their recommendations to the Wake County Soil and Water Conservation District Board of Supervisors within five (5) days after the date of the hearing.

(d) The district board must render its decision on any erosion control plan for which a hearing has been held at its next regular meeting.

(e) The Wake County Board of Commissioners must review the district's board's decision if the person who originally submitted the request for appeal submits a written request to the board of commissioners within fifteen (15) days after receipt of the district's decision. The person submitting the request for appeal has fifteen (15) days following the Wake County Commissioner's decision to appeal the county's decision to the N.C. Sedimentation Control Commission or its successor pursuant to NCAC 4B.0018(b).

(f) In the event that request for appeal is disapproved pursuant to section 19-124(e), the director of environmental services must notify the director of the division of land resources of such disapproval within ten (10) days. The director of environmental services must advise the applicant and the director of the division of land resources in writing as to the specific reasons that the request was disapproved.
(Ord. No. 3460, § 10-14, 5-7-07)

Sec. 19-125. Enforcement and penalties.

(a) *Civil penalties.*

- (1) Any person who violates any of the provisions of this article, or rules or orders adopted or issued pursuant to the erosion and sedimentation control regulations of this article, or who initiates or continues a land-disturbing activity for which an erosion control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty of up to five thousand dollars (\$5,000.00) per day. The penalty may be assessed for the day that the violation(s) was first observed by staff engineers. Each day of continuing violation constitutes a separate violation. The director of the department of environmental services is authorized to assess the penalty. The person alleged to be in violation must be notified by certified mail, return receipt requested, or other means reasonably calculated to give actual notice. Evidence that the postal service has attempted to deliver the notice of violation by certified mail to the agent listed on the financial responsibility statements will be deemed adequate notice. The notice must describe the violation with particularity, may specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period specified will result in the assessment of civil penalty or other penalty or other enforcement action.
- (2) No time period for compliance need be given for failure to submit an erosion control plan for approval or for obstructing, hampering or interfering with an authorized representative while in the process of carrying out their official duties.
- (3) Any person who fails to submit an erosion control plan on parcels of land that exceed one acre or more of disturbance as required by this article is subject to a civil penalty of up to five thousand dol-

lars (\$5,000.00). Each day of continuing violation constitutes a separate violation. Any person who is subject to a civil penalty under this subsection may be subject to additional civil penalties for violation of any other provision of this article, or rules or orders adopted or issued pursuant to the erosion and sedimentation control regulations of this article.

- (4) Any person who violates the provisions of section 19-118(g) may be subject to a civil penalty of up to five thousand dollars (\$5,000.00). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation constitutes a separate violation. Fines will be determined by considering the nature of the harm caused by the violation, the money saved by the violator by non-compliance, whether the violation was willful, and the prior record of the violator.
- (5) The person conducting the land-disturbing activity may appeal the assessment of civil penalties to the director of environmental services or designee and who must consider any and all extenuating or mitigating circumstances.
- (6) The Director of the Wake County Department of Environmental Services must make written demand, by certified mail or other means reasonably calculated to give actual notice, for payment upon the person in violation, and must set forth, in detail, a description of the violation for which the penalty has been imposed. If the payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter must be referred to the county attorney for institution of a civil action in the name of the county, in the appropriate division of the General Court of Justice in Wake County for recovery of the penalty. Any sums recovered must be used to carry out the purposes and requirement of this article.

- (7) Stop work order, permit revocation for non-performance. If the county, upon site inspection determines that due care for plan implementation is inadequate to meet the requirements of this article the county may issue a stop work order in accordance with section 19-115(d)(1)—(6). Upon the issuance of a stop work order, the director of environmental services must require that all provisions of sections 19-115, 19-116, 19-117, 19-118 be met.
- (8) Any person or companies determined in violation of section 19-118(g) will be charged for road cleaning at the rate of three hundred dollars (\$300.00) per hour for the first hour or part of hour and two hundred dollars (\$200.00) per hour or part of hour thereafter until work is completed as specified by Wake County's authorized agent.

(b) *Criminal penalties.* Any person who knowingly or willfully violates any provision of this article, or rule or order adopted or issued pursuant to this article, or who knowingly or willfully initiates or continues a land-disturbing activity for which an erosion plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, is guilty of a class 2 misdemeanor with a maximum fine of one hundred dollars (\$100.00).

(Ord. No. 3460, § 10-15, 5-7-07; Ord. No. (2022)5091, § 1, 1-3-22)

Sec. 19-126. Injunctive relief.

(a) Whenever the Director of the Wake County Department of Environmental Services or designee has reasonable cause to believe that any person is violating or threatening to violate this article or any rule to order adopted or issued pursuant to this article, or any term, condition, or provision of an approved erosion control plan, the director may, either before or after the institution of any other action or proceeding authorized by the erosion and sedimentation control regulations of this article, institute a civil action in the name of the county for injunctive

relief to restrain the violation or threatened violation. The action must be brought in the Superior Court of Wake County.

(b) Upon determination by a court that an alleged violation is occurring or is threatened, it must enter such order or judgments, as are necessary, to abate the violation or to prevent the threatened violation. The institution of an action for injunctive relief under this section does not relieve any party to such proceeding from any civil or criminal penalty prescribed for violations of the erosion and sedimentation control regulations of this article.

(Ord. No. 3460, § 10-16, 5-7-07)

Sec. 19-127. Civil relief.

(a) Any person injured by a violation of this article, or of any rule, regulation, or order duly adopted by the Commissioners of Wake County, or by the initiation or continuation of a land-disturbing activity for which an erosion control plan is required other than in accordance with the terms, conditions, and provisions of an approved plan, may bring a civil action against the person alleged to be in violation. The action may seek:

- (1) Injunctive relief;
- (2) An order enforcing the erosion and sedimentation control regulations of this article or rule, regulation, order or erosion control plan violated; or
- (3) Damages caused by the violation; or
- (4) Both damages and injunctive relief; or
- (5) Both damages and enforcement order.

(b) Civil action under this section may be brought in the Superior Court of Wake County. The court, in issuing any final order in any action brought pursuant to this section may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever it determines that such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security with the amount of such bond or security to be determined by the court.

(c) Nothing in this section restricts any right, that any person (or class of persons) may have under any statute or common law, to seek injunctive or other relief.

(Ord. No. 3460, § 10-17, 5-7-07)

Secs. 19-128—19-199. Reserved.

ARTICLE VIII. RIGHTS-OF-WAY

Sec. 19-200. Definitions.

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

"Cable right-of-way user" means a cable system defined under 47 U.S.C. § 522.

"Excavate" means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

"NCDOT ROW Policies" means the Policies and Procedures For Accommodating Utilities On Highway Rights-of-Way, published by the N.C. Division of Highways, January 1, 1975, revised April 1, 1993 as shall be amended from time to time.

"Obstruct" means to place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way without adequate traffic control.

"Permittee" means the person or entity (a registrant itself or its utility subcontractor) which obtains a permit to perform work in a public right-of-way.

"Permittee's principal" means the person or entity (typically a cable or telecommunications or utility company) for which the permittee proposes to perform work.

"Registrant" means any person (typically a telecommunications company or utility) which has or seeks to install or modify facilities in any town right-of-way.

"Telecommunication right-of-way user" means a person owning or controlling a facility in the

right-of-way, or seeking to own or control a facility in the right-of-way, that is used or is intended to be used for transporting public or private telecommunication or other voice or data information.

"*Underground Damage Prevention Act*" means the rules and regulations to which right-of-way Users must comply when installing or working around underground facilities. See N.C.G.S. § 87-100.

"*Underground utility*" means any underground line, system or facility used for producing, storing, conveying, transmitting, or distributing communications or telecommunications, electricity, gas, petroleum and petroleum products, water, or sanitary sewage, but not including traffic signal control cables and vehicle detection cables of the North Carolina Department of Transportation. See N.C.G.S. § 87-101(12).

"*Utility service*" means any service furnished by a public utility or municipality, including any commodity furnished as a part of such service and any ancillary service or facility used in connection with such service.
(Ord. No. 3470, 7-17-07)

Sec. 19-201. Registration and right-of-way occupancy.

(a) *Registration.* Each person who occupies, uses, or seeks to occupy or use, the town's right-of-way or construct any equipment or facilities in or on the right-of way, shall register with the town, provided, however, that an abutting property owner who occupies, uses, or has a portion of the town's right-of-way available for occupancy or use has no obligation to register unless construction of equipment or facilities is proposed in the right-of-way. Registration will consist of providing application information and paying such registration fee as the town may adopt.

(b) *Registration prior to work.* No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof in any right-of-way without first being registered with the town.

(c) *Continuing responsibilities.* Registrant and any permittee acting on its behalf must comply with the National Electrical Safety Code (NESC) and the National Electric Code (NEC) as well as with other Federal, State and local regulations.

(d) *Exceptions.* Nothing herein shall be construed to repeal or amend the provisions of any town ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb. Persons planting or maintaining boulevard plantings shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this chapter. However, nothing herein relieves a person from complying with the provisions of the NCGS § 87, Article 3, "Underground Damage Prevention Act"; the town reserves the right to remove such plantings as may be required in the use and maintenance of rights-of-way, and nothing herein requires the town to maintain any such plantings.

(Ord. No. 3470, 7-17-07; Ord. No. (2019)4000, § 1, 9-17-19)

Sec. 19-202. Registration information.

Information required. The information provided to the town at the time of registration shall include, but not be limited to:

- (1) Each registrant's name, N.C. One-Call registration certificate number, address and email address if applicable, and telephone and facsimile numbers.
- (2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.
- (3) Evidence of comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the town in amounts sufficient to protect the town and the public and to carry out the purposes and policies of this chapter.

- (4) The town may require a copy of the certificates and/or insurance policies.
(Ord. No. 3470, 7-17-07)

Sec. 19-203. Reporting obligations of registrants.

(a) *Operations.* Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for underground facilities with the town. Such plan shall be submitted using a format designated by the town and shall contain the information determined by the town to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of right-of-way.

(b) [*Inclusion.*] The plan shall include, but not be limited to, the following information:

- (1) The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year ("next year projects"); and
- (2) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five (5) years following the next calendar year ("five-year projects").

(c) *Updated:* By January 1 of each year, the town will have available for inspection in the town's office, a composite list of all registrant construction and maintenance plans. All registrants are responsible for keeping themselves informed of the current status of this list.

By February 1 of each year, each registrant may update next year projects or five-year projects, and must notify the town and all other registrants of these changes.

(Ord. No. 3470, 7-17-07)

Sec. 19-204. Permits.

(a) A permit is required to excavate that part of the right-of-way described in such permit and/or to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein. Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the town to do so.

(b) Permits issued under this chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the town.

(c) No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless permit extension is granted.

(d) Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the town or other applicable rule, law or regulation. A permittee shall

comply with all requirements of local, state and federal laws and regulations, including NCDOT ROW Policies and NCGS § 87 (Underground Damage Prevention Act); the National Electric Safety Code (NESC), the National Electric Code (NEC) and Occupational Safety and Health Administration (OSHA) regulations. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work performed in the right-of-way pursuant to its permit, regardless of who performs the work.

(e) Nothing in this chapter precludes the town from requiring an encroachment agreement with the applicant, in addition to requirements set forth herein.

(Ord. No. 3470, 7-17-07)

Sec. 19-205. Permit applications.

Right-of-way permit applications shall contain, and will be considered complete only if, the proposed permittee's principal has registered with the town, and only upon compliance with the requirements of the following provisions:

- (1) A proposed permittee, in order to have a permit issued, must qualify by meeting the standards set forth in this article and must file a permit application specific to the construction project. A proposed permittee may pre-qualify by demonstrating to the town that it has required licenses and insurance providing such periodic certificates as is necessary to demonstrate to the town that licensing and insurance coverage remains in effect.
- (2) A permittee must hold all required licenses and have in effect comprehensive general liability insurance and vehicle liability insurance with coverage of two million dollars (\$2,000,000.00) and workers' compensation insurance at statutory limits, in an amount satisfactory to the director. The town shall be named as an additional insured on all liability policies providing an option for such coverage. The permittee shall be responsible to assure that certificates of insurance coverage are provided to the town at all times.

- (3) Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities.
 - (4) Payment of money due the town for:
 - a. Permit fees, if any have been adopted, franchise fees or other charges, if applicable, and/or estimated restoration costs, in the discretion of the town;
 - b. Any fees, undisputed loss, damage, or expense suffered by the town because of applicant's prior excavations or obstructions of the right-of-way or any emergency actions taken by the town;
 - c. Security for any disputed amounts due the town.
 - (5) The director may require a bond where in his opinion the same is necessary. The director may waive any of the aforesaid requirements where appropriate.
- (Ord. No. 3470, 7-17-07)

Sec. 19-206. Issuance of permit; conditions.

(a) The town may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use.

(b) Denial of permit. The town may deny a permit for failure to meet the requirements and conditions of this chapter or if the director determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way in its current use or due to a congested right-of-way.

(c) The permittee shall comply with the following construction standards:

- (1) Pre-excavation facilities location. In addition to complying with the requirements of N.C.G.S. § 87 ("Underground Damage Prevention Act") before the start date of

any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and vertical placement of all said facilities. Any registrant whose facilities are less than twenty (20) inches below a concrete or asphalt surface shall notify, and work closely with, the excavation contractor to establish the exact location of its facilities and determine the best procedure for excavation.

- (2) The permittee shall perform excavation, backfilling, patching, restoration and other work according to the standards and with the materials specified by the town, and in conformance with N.C.D.O.T. right-of-way policies and any other applicable policies or regulations.
- (3) A permittee shall maintain the excavation until it is filled. Any excavation must be filled within five (5) days.
- (4) A permittee must patch its own work.
- (5) If the town chooses to restore the right-of-way itself, the permittee shall pay the costs thereof within thirty (30) calendar days of billing.
- (6) The permittee shall correct defects in patching or restoration performed by permittee or its agents. The permittee upon notification from the town, shall correct all restoration work to the extent required, using the method required by the town. Such work shall be completed within five (5) calendar days of the receipt of the notice from the town, not including days during which work cannot be done because work is prohibited as unseasonal or unreasonable under section 19-203.
- (7) Permittee shall within thirty (30) calendar days restore and replace landscaped areas, pavement, pedestrian lighting, sidewalks, curbs, gutters or other facilities damaged by permittee within the public right-of-way or by its contractors with like material and to their former condition at permittee's expense, and shall thereafter, from time to time, but no longer than one

- (1) year from the completion of the job, readjust, fill and finish the same as may be necessary due to settling of the earth associated with permittee's disruption of the public right-of-way.
- (8) If the permittee fails to restore the right-of-way in the manner and to the condition required by the town, or fails to satisfactorily and timely complete all restoration required by the town, the town at its option may do such work. In that event the permittee shall pay to the town, within thirty (30) calendar days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the town may exercise its rights under the construction performance bond, if any.
- (9) Placement, location, and relocation of facilities must comply with all federal, state and local laws, and with NCDOT ROW Policies Rules.
- (d) A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area (i) make application for a permit extension and (ii) be granted a new permit or permit extension.
- (e) Site inspection. Permittee shall make the worksite available to the town for inspection upon request and at all reasonable times during the execution of and upon completion of the work.
- (f) Prohibited work. Except in an emergency, and with the approval of the town, no right-of-way obstruction or excavation may be performed when seasonally prohibited, or when conditions are unreasonable for such work, as determined by the town.
- (g) Interference with right-of-way. A permittee shall not so obstruct a right-of-way so as to interfere with the natural free and clear passage of water through the gutters or other waterways. Private vehicles of those doing work in the right-of-way may not be parked within or next to a

permit area, unless parked in conformance with town parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.

(Ord. No. 3470, 7-17-07)

Sec. 19-207. Authority of director.

The director may order the immediate cessation of any work on the basis that it poses a serious threat to the life, health, safety of persons or property. The director may issue an order to revoke the permit of a permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions or codes. Nothing herein is intended to impose any obligation on the director to investigate, inspect or police work by a registrant or permittee.

(Ord. No. 3470, 7-17-07)

Sec. 19-208. Work performed without a permit.

(a) *Emergency situations.* Each permittee or registrant shall immediately notify the town manager, fire or police chief of any event regarding its facilities that it considers an emergency. The registrant may proceed to take whatever actions are necessary to immediately respond to the emergency. Within two (2) business days after the occurrence of the emergency, the permittee shall apply for the necessary permits, pay associated fee, and fulfill all requirements necessary to reestablish its compliance with this chapter for any actions that made it non-compliant during the emergency. If the town becomes aware of an emergency regarding a registrant's facilities, the town will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the town may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

(b) [Waiver.] If emergency work is completed before the foregoing notification is given, the director may waive the permit application for good cause.

(c) *Non-emergency situations.* Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way, must subsequently obtain a permit, and as a penalty pay double the normal fee for said permit, pay double all the other fees required by the town code, deposit with the town the fees necessary to correct any damage to the right-of-way as determined by the town, and immediately comply with all of the requirements of this chapter.
(Ord. No. 3470, 7-17-07)

Sec. 19-209. Revocation of permits.

(a) *Substantial breach.* The town reserves its right, as provided herein, to revoke any right-of-way permit, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

- (1) The violation of any material provision of the right-of-way permit;
- (2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the town or its citizens;
- (3) Any material misrepresentation of fact in the application for a right-of-way permit;
- (4) The failure to complete the work in a timely manner; unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control; or
- (5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to section 19-208(c).

(b) *[Order to revoke.]* The order to revoke a permit shall state the violation and that failure to correct the violation will be cause for revocation of the permit. Within ten (10) calendar days after issuance of the order, the permittee shall present proof to the director that the violation has been corrected. If such proof has not been presented

within the required time, or if the proof is determined to be unacceptable by the director, the director may revoke the permit and implement penalties in accordance with section 19-208(e).

(c) *[Determination.]* If the town determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit the town shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the town, at his or her discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

(d) *Response to notice of breach.* Within twenty-four (24) hours of receiving notification of the breach, permittee shall provide the town with a plan, acceptable to the town, to cure the breach. Permittee's failure to so contact the town, or permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit and/or denial of future permits.

(e) *Costs.* If a permit is revoked, the permittee shall also reimburse the town for the town's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.
(Ord. No. 3470, 7-17-07)

Sec. 19-210. Mapping data.

Each registrant and permittee shall provide mapping information required by the town, such as drawings in paper and electronic (e.g., Autocad files) form showing the precise location of the encroachment, and in the case of encroachments for transmission devices the drawing shall show the location of other adjacent utilities in the public right-of-way.
(Ord. No. 3470, 7-17-07)

Sec. 19-211. Corridors.

(a) The town may assign specific area within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities

that is or, pursuant to current technology, the town expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the town involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

(b) Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the town shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities at no cost to the town to the assigned position within the right-of-way, unless this requirement is waived by the town for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

(c) Limitation of space. To protect health, safety, and welfare or when necessary to protect the right-of-way and its current use, the town shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the town shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future town plans for public improvements and development projects which have been determined to be in the public interest unless this requirement is waived by the town for good cause shown, upon consideration of such factors as public safety, customer service need and hardship to the registrant.

(d) Relocation. Whenever the town shall plan to widen, modify, close, relocate, grade or regrade any public street, sidewalk, or other public way, in which a permittee has installed any of its poles, wires, conduits or other structures, it shall be the duty of the permittee, upon reasonable notice by the town, to remove or relocate as necessary its poles, wires, conduits or other structures; and, the permittee will bear the cost of such removal or relocation unless the permittee has a prior right

of occupancy in its existing location by reason of holding the fee, an easement, whether acquired expressly, impliedly, or by prescription, or other real property interest compensable in eminent domain. Removal or relocation of street lighting poles wires, conduits, or other structures shall be governed by the provisions of the permittee's tariff and service regulations on file with and approved by the North Carolina Utilities Commission.

(Ord. No. 3470, 7-17-07)

Sec. 19-212. Damage, removal and repair of other facilities.

When the town performs work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect them, the town shall notify the registrant's local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within thirty (30) calendar days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way that it, or its facilities, damage. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the town's response to an emergency occasioned by that registrant's facilities.

(Ord. No. 3470, 7-17-07)

Sec. 19-213. [Regulatory fees and costs.]

The regulatory fees and costs provided for in this section, and any compensation charged and paid for the public rights-of-way provided by this section, are separate from, and additional to, any and all federal, state, local town and county taxes as may be levied, imposed or due from a telecommunications carrier or provider, its customers or subscribers, or on account of the lease, sale, delivery or services.

(Ord. No. 3470, 7-17-07)

Sec. 19-214. [Annual registration fee.]

(a) There shall be an annual registration fee, payable by registrants, by the 31st day of January each year.

(b) In the event the registrant fails to make any payment on or before the date it is due, the registrant shall pay interest at a rate of one (1) percent per month on any underpayment and/or late payment.

(Ord. No. 3470, 7-17-07)

Sec. 19-215. [Remedy provisions.]

The remedy provisions set forth in section 19-208(c) are not exclusive, and do not preclude the town manager, director, or designee from pursuing any other or additional remedy in the event that payments become overdue by more than sixty (60) calendar days.

(Ord. No. 3470, 7-17-07)

Sec. 19-216. Abandoned facilities.

Abandoned facilities shall revert to the town, provided, however, that the registrant and/or owner must, if requested to do so by the town, either remove the facilities or give satisfactory proof to the town that responsibility for the facilities has been assumed by another registrant.

(Ord. No. 3470, 7-17-07)

Sec. 19-217. [Review of denial, revocation, or fee imposition.]

A right-of-way user that: (1) has been denied registration; (2) has been denied a permit; (3) has had its permit revoked; or (4) believes that the fees imposed are invalid, may have the denial, revocation, or fee imposition reviewed, upon written request, by the town council. The town council shall act on a timely written request at its next regularly scheduled meeting. A decision by the town council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

(Ord. No. 3470, 7-17-07)

Appendix A

RESERVED*

***Editor's note**—Ord. No. 3716, Art. 10, adopted Nov. 19, 2013, repealed former App. A, §§ I—XVII, which pertained to subdivisions. See the Code Comparative Table for a complete derivation.

CODE COMPARATIVE TABLE

This is a chronological and a numerical listing of the ordinances and motions of the town used in this Code. Superseded laws and any omitted materials are not reflected in this table.

Ordinance Number	Date	Section	Section this Code
	7- 2-51		15-72
	10- 3-55	1	11-11
	2- 6-56	1	10-56
	8-14-57	1, 2	17-2
	9-23-57	2—5	15-55—15-58
	3- 3-58		17-3
	6- 2-58		10-50, 19-1
	7- 7-58	I	10-84
		II	10-102
1002	4- 6-59	1(H)	10-99
		1(H)(2)	10-64
		1(I)	10-78
		1(2)	10-2
		1(3)	10-4
		1(4)	10-3
		1(5)	10-37
		1(5)(A—C)	10-35
		1(5),(d),(g)	10-38
		1(6)	10-39
		1(7)	10-62
		1(8)	10-65
		1(10)(A),	15-28, 15-30
		1(10)(B)	15-29
		1(11)	3-9
		1(12)	11-13, 11-14
		1(13)	10-61
		1(14)	10-40
		1(15)	10-55
		1(16)(A)	10-60
		1(16)(A)	10-101
		(B)(1)	
		1(16)(B)(2)	10-83
		1(16)(E)	10-82
		1(16)(F)	10-97
		1(16)(G)	10-80
		1(17)(A)	10-42
		1(17)(B)	10-44
		1(18)	10-59
		1(19)	10-51
		1(20)	10-54
		1(21)	10-53
		1(22)	10-57
		1(23)	10-58
		1(24)	10-5
		1(28)	10-46
		1(29)	10-36, 10-37
		1(30)	10-79
1004	4- 4-59	1(1),(5)	1-2
1005	4- 6-59	1(1)—1(4)	2-16—2-19
		1(5)	2-4
		1(5)	2-25
		1(6)	2-22, 2-23

GARNER CODE

Ordinance Number	Date	Section	Section this Code
1006	4- 6-59	1(7)	2-20
		1(8)	2-24
		1(a)	2-21
		1(3)	11-6
		1(7)	11-3
		1(8)	11-2
		1(11)	11-7
		1(12)	11-8
		1(15)	11-4
		1(16)	11-9
		1(18)	11-5
		20	11-10
		21	11-11
		22	11-1
		22	18-3
		23	15-84—15-91
		23	18-4
		24	18-1
1007	4- 6-59	1(1)	9-1
		1(2)	11-12
		1(3)	9-2
		1(4)	9-3
	9- 8-59	1	9-4
	9-14-59	II (Art. 1)	4-18, 4-19
		(Art. 2)	4-19
		(Art. 3)	4-20, 4-21
		III (Art. 1)	4-24
		(Art. 2, 3)	4-25
		(Art. 4)	4-22
		(Art. 5)	4-23
		(Art. 6)	4-23
		(Art. 6)	4-26
		IV (Art. 3)	4-2, 4-3
1023	3- 7-60	1 (B)—(D)	10-79
1024	3-24-60	1(2)	19-18, 19-23
		1(5)	19-17
		1(5)(1)	19-22
		1(5)(2)	19-20
1032	6- 6-60		11-10
1034	6- 8-60	I (Art. 1)	14-16
		(Art. 4)	14-18
		(Art. 5)	14-19
		(Art. 5)	14-20
		II (Art. 1)	14-21, 14-22
		(Art. 2)	14-17
		(Art. 3)	14-23
		(Art. 5)	14-25
		(Art. 6)	14-24
		III (Art 1)	14-26
1107	10- 1-62	2	10-49
1108	10-20-62	1	2-21
1112	1- 7-63	1	11-11
1117	5- 6-63	2(5)	19-62
		2(6)	19-60
		2(7)	19-64
		2(8)	19-63
		2(10)	19-66

CODE COMPARATIVE TABLE

Ordinance Number	Date	Section	Section this Code
1123	8- 8-63	2(13)	19-65
		2(16)(b)	19-59
		1	13-1
		2	13-2
		3	13-10
		3(a)—(c)	13-12—13-14
		3(d)	13-11
		4(a)	13-6
		4(b)	13-3—13-4
		4(c)	13-5
		4(d)	13-7
		4(e), (f)	13-8
		5(a)	13-15
		5(b)	13-16
		6—16	13-17—13-27
			17-4
1144	Mo. 12- 7-64		
	3- 1-65	2	17-5
1153	10- 4-65	1	9-1
	Mo. 3- 7-66		
1157	4-18-66	1—3	4-4—4-6
1171	10- 2-67	1	18-1, 18-13, 8-14
1173	3-19-68	Art. I, § III	12-1
		§ IV	12-2
		Art. II, § V	12-41
		§ V	12-42
		§ VI	12-47
		§ VI(4)	12-62
		§ VII	12-43
		VIII	12-42
		IX	12-44
		§ XII	12-45
		§ XIII	12-46
		§ XVII	12-48
		Art. III, § XVIII	12-14, 12-15
		§ XIX	12-16
		§ XX	12-23—12-26
		§ XX	12-28
		§ XXI	12-27
		§ XXI	12-49
		§ XXII	12-29
		Art. IV, § XXIII	12-62
		§ XXIV	12-63
		§ XXV	12-61, 12-64
		Art. V, § XXVI	12-76
		Art. VI, § XXVI	12-77
		§ XXVI	12-78
1175	4- 1-68	1	10-42, 10-44
1177	4- 5-68	1	11-1
1178	4- 5-68	1	15-84
		2—5	15-86—15-89
		6	15-91
		7	15-90
		8	15-85
		2(3)	19-14, 19-15
		2(4)	19-14
1181	5-21-68	2	10-116
		3	10-117

GARNER CODE

Ordinance Number	Date	Section	Section this Code
		4	10-118
		5-7	10-118
		8	10-119
		8(b)	10-117
		9	10-115
		10	10-6
1183	6- 3-68	§ 1(5)	14-33
		§ 1(5), (6)	14-35
		§ 1(8)	14-36, 14-37
		§ 1(17)	14-34
1189	12-17-68	1	10-63, 10-100
1193	3-18-69	1	5-1
		2(c)	5-3
		2(d)	5-4
		2(e)	5-6
		2(f)	5-2
		3	5-5
1195	4- 7-69	1	8-17, 8-19
		2	8-22, 8-24-8-26
		3	8-27-8-29
		4	8-20
		5	8-30
		6	8-21
		7	8-18
1196	4-22-69	§ 2	13-11, 13-15
1197	4-22-69	Art. II, § 1	7-1
		Art. III, § 1	19-19
		1-8	19-36-19-43
		9	19-35
		10	19-44
1198	6-17-69	1-6	6-17-6-22
		7	6-16
		8	6-23
	Mo. 9- 3-69		2-1-2-3
1204	10-21-69	1	10-6
1205	9-22-69	§ 1	3-10-3-13
		§ 5	3-8
		§§ 6-9	3-7
		§ 10	3-1
		§ 11	3-2
		§ 12	3-5
		§ 13	3-4
		§ 14	3-3
		§ 15	3-6
		§ 16(a)	3-25
		16(b)	3-27
		§ 16(c)	3-28
		§ 16(d)	3-28, 3-29
		§ 17	3-30
		§ 18	3-31
		§ 19, 20	3-32
		§ 21	3-33
		§ 22	3-34
		§ 23	3-26
	Res. 10- 6-69		15-71
1206	12-16-69	1	10-18
		2	10-20

CODE COMPARATIVE TABLE

Ordinance Number	Date	Section	Section this Code
		3	10-22
		4	10-23
		5	10-21
		6	10-19
1215	6-22-70	Art. I—XVII	App. A, §§ I—XVII
1226	9-22-70	1	10-42
1229	11- 9-70	1	18-1
1231	12- 7-70	1	16-16
		2—4	16-52—16-54
		5	16-57—16-58
		6	16-55
		7	16-56
		8	16-59
		9	16-60
		10	16-67
		11	16-68
		11	16-69, 16-70
		12	16-73
		13	16-69, 16-71
		14	16-72
		15	16-74
		16	16-77
		17	16-76
		18	16-75
		19(a)—(c)	16-24—16-26
		20	16-27
		21	16-28, 16-29
		22	16-34
		23	16-44
		23	16-45
		24(a)	16-35
		24(b)	16-36
		24(c)	16-30
		24(d)	16-37
		24(e)	16-38
		24(f)	16-32
		24(g)	16-31
		24(h)	16-33
		24(i)	16-39
		25	16-19
		26	26-40—16-42
		27(a)	16-20, 16-21
		27(b)	16-22
		27(e)	16-18
		28	16-43
		29	16-17
1241	5-18-71	1	9-16
		2	9-17, 9-21, 9-23
		3	9-18
		4	9-24, 9-25
		6	9-19, 9-20
		7	9-22
		8	9-26
		9	9-27
1242	5-18-71	§ 1	13-18
1248	7- 5-71	1	10-42
	9-23-71	1	15-54

GARNER CODE

Ordinance Number	Date	Section	Section this Code
1254	11-16-71	1	10-42
1256	12- 6-71	1	10-42
1260	12- 6-71	2	19-78
1269	3-21-72	§ 1	3-7
1280	6-27-72	1-5	Added Ch. 13.1, §§ 13.1-16- 13.1-20
1290	9- 5-72	2	App. A, § XIII
1292	9- 5-72	1	App. A, § 4-4 (note)
1300	11-21-72	1	17-61
		2	17-66
		3	17-67
		4-6	17-63-17-65
		7	17-62
1315	3-20-73	1	10-42
1316	4- 2-73	1	10-42
1333	7- 2-73	1	10-42(b)
1338	8- 6-73	1	2-5
1342	8- 7-73	1	3-33(c)-(e)
1345	9-18-73		Adopting Ordinance, p. ix
1355	1- 7-74	1	10-42(b)
1361	3-19-74	1	10-42(b)
1362	3-19-74	1, 2	8-22, 8-23
1378	9- 3-74	1	13.1-17
1379	9-17-74	1	3-28(a)
1380	10-22-74	1-3	11-15
1388	12-17-74	1	10-84
1395	3- 3-75	1	3-3
		2	3-25
		3	3-32
		4	3-33
1397	3- 3-75		Added Ch. 17, Art. IV, § 17-75
1398	3-17-75	1	10-97
1403	6-17-75	1	10-84
		2	Rpld 10-100
1410	7- 7-75	1	Added 11-16
1411	7-22-75	1	13.1-20
		2	13.1-17
1413	8- 4-75	1	3-31(a)
1415	9- 2-75	1, 2	5-5
1433	1-20-76	1	10-48
1435	2-17-76	1	10-48(c)
1439	4-29-76		10-84
1442	5- 3-76	1	Rpld 11-12
1444	6-22-76	1	App. A, § XII(4.1) (3)
		2	App. A, § XIV(1.3)
1449	7- 6-76	1	10-42(b)
		2	10-44
1453	8- 2-76	1	5-1-5-6
1464	12-21-76	1	3-33(d)
1465	1- 3-76	1	5-3(a)
		2	5-3(a), (e)
1469	2-22-77	1, 2	10-42(b)
1471	3-22-77	1	Rpld 13-7, 13-8
			Added 13-7-13-11
		2	Rnbd 13-9-13-16

CODE COMPARATIVE TABLE

Ordinance Number	Date	Section	Section this Code
		as	13-12-13-19
		3 Rpld	13-7
		Added	13-20
		4 Rnbd	13-18-13-23
		as	13-21-13-26
		5 Added	13-27
		6 Rnbd	13-24-13-27
		as	13-28-13-31
1475	4-19-77	1	13-3(c)
		2	13-31
1476	5- 2-77	1	App. A, § XII(4.1)(4)
1485	6-16-77	1 Rnbd	13-21-13-31
		as	13-22-13-32
		2 Added	13-21
1490	9- 6-77	1	11-17
1491	10- 3-77	1	10-42(b)
1495	11-22-77	1 Rpld	10-63
		2	10-84
1498	12- 5-77	1-10	19-46-19-55
1508	2- 6-78	1	10-42(b)
1512	3- 6-78	1	16-68(b)
1513	3-21-78	1, 2	11-11
1515	3-21-78	1	10-82
1519	6- 5-78	1	10-42(b)
1525	8- 7-78	1	10-82
1526	8- 7-78	1, 2	13-20, 13-21
		3	13-23(i)
1531	10-17-78	1	10-48(b)
1533	11- 6-78	1	10-42(b)
1534	11-27-78	1	10-79
1535	11-27-78	1	10-84
1536	12- 4-78	1, 2	19-21
1539	12-19-78	1-3	19-21
1540	12-19-78	1	19-79
1541	12-19-78	1, 2	19-61
1542	12-19-78	1	17-18
1552	1-16-79	1, 2	9-28, 9-29
1557	2- 5-79	1, 2	10-84
1564	3-20-79	1	App. A, § X.1(1)
		2	App. A, § III
1571	4-17-79	1	10-42(b)
1584	5-22-79	1	10-84
1585	5-22-79	1	10-42(b)
1587	6- 4-79	1	6-20(a)
1596	6-25-79	1	5-5(f)
1597	6-25-79	1	10-20(c)
1598	6-25-79	1	9-28(a)
1600	7- 2-79	1	3-28(a)
1612	8-21-79	1	17-75(g)
1621	9-18-79	1	10-42(b)
1623	10- 1-79	1	10-48(b)(3)
1627	11- 5-79	1, 2	13-21
		3	13-22
1631	11-20-79	1	10-84
1639	1-22-80	1(1)-(6)	7-1-7-6
		(7)(a), (b)	7-7(a), (b)
		(c)	7-7(a)

GARNER CODE

Ordinance Number	Date	Section	Section this Code
		(d), (e)	7-7(c), (d)
		(8)—(13)	7-8—7-13
		(14)	7-15
		(15)(a), (b)	7-16(a), (b)
		(c)	7-18
		(d), (e)	7-16(c)—(d)
		(16)	7-17
		(17)—(19)	7-19—7-21
		(20)	7-14
		(21), (22)	7-22, 7-23
1640	1-22-80	1	10-84
1641	2- 4-80	1	10-48(d)
1648	3- 3-80	1	10-84
1650	3-18-80	1	17-75(h)
1651	3-18-80	1—4	17-3
1653	4- 8-80	1, 2	10-84
1656	4- 8-80	1	9-28(a)
1660	5- 5-80	1	9-16
		2	9-17
		3, 4	9-28(a)
1669	6-17-80	1	App. A, § X.1(1)
1681	7- 7-80	1	10-42(b)
1682	7-22-80	1	17-61
		2	17-66(a)(8)
		3	17-67(c)(2)
		4	17-67(d)
1695	11-17-80	1	App. A, § XII.2(2.1)
1696	11-18-80	1—10	8-16—8-25
		11	8-16—8-30
1697	12- 1-80	1	App. A, XIII
1700	12-16-80	1	3-1
		2	3-16
		3—11	3-3—3-11
		12—14	3-13—3-15
		15	3-12
		16	3-2
		17—23	3-30—3-36
		24	3-1—3-13,
			3-25—3-34
1706	2-17-81	1—7	12-21—12-27
		8	12-1, 12-2,
			12-14—12-16,
			12-23—12-29,
			12-41—12-49,
			12-61—12-64,
			12-76—12-78
1715	5-19-81	1	Added 10-48(b)(3)
		2	Rnbd 10-48(b)(3)
			as 10-48(b)(4)
1716	5-19-81	1	5-5(f)
1724	6-29-81	1	Rpld 10-18—10-23
1732	8- 3-81	1	Rpld 5-3(b), (c)
		2, 3	Added 5-3(b), (c)
		4	5-3(j)
1735	8-18-81	1	10-42(b)
1737	9- 8-81	1	Rpld 4-4
			Added 4-4

CODE COMPARATIVE TABLE

Ordinance Number	Date	Section	Section this Code
		2	Rpld 4-5
			Added 4-5
		3	Rpld 4-6
1738	9-22-81	1-12	11-32-11-43
		14	11-31
1753	10-20-81	1	10-42(b)
1761	12-22-81	1	Ch. 10, Art. II(note)
1762	1- 4-82	1	Rnbd 17-18
			as 17-24
			Added 17-18-17-23
1765	2-16-82	1, 2	5-3(k), (l)
		3	5-7
1766	2-16-82	1-7	5-2
1772	3-16-82	1	10-84
1773	4- 5-82	1-15	9-51-9-65
1774	4-20-82	1-3	19-91-19-93
1789	7- 6-82		17-19
1790	7- 6-82		10-85
1791	7-20-82	1	10-84
1792	7-20-82		10-18-10-23
1800	9- 7-82	1	10-48(d)
1804	9-21-82	1	App. A, § X.4(7)-(10)
		2	App. A, § XIV.1.9
1807	9-21-82	1	App. A, § III
1808	9-21-82	1, 2	10-84
1813	10-19-82	1, 2	5-3(j)
1814	11- 1-82	1	10-42(b)
1817	12-21-82	1	Rpld 2-1
		2	Rpld 13-14
		3	13-23(h)
1826	1-18-83	1	8-20
		2	8-21(a)
1828	2- 7-83	1	5-1-5-8
1842	4-19-83	1	10-84
1864	7- 5-83		17-19
1865	7- 5-83	1	17-18
1866	7- 5-83	1	17-24
1868	7-19-83		10-20(a), (c)
1869	7-19-83		5-5(f)
1876	8-16-83	1	3-10(a)
1879	9-20-83	1	5-6(g)
1880	9-20-83	1	17-61-17-71
1883	9-26-83	1	5-6(h)
1886	10- 3-83	1	5-6-5-9
1887	10- 3-83	1-4	5-6.1
1890	11-22-83	1	10-42(b)
1895	11-22-83	1	10-84.1
1896	12- 5-83	1	17-63(a)(2)
1905	2- 6-84	1	10-80(3)
1916	4-17-84	1	10-42(b)
1925	6- 4-84	1	9-28
1927	6-19-84	1	9-28(a)
1928	6-25-84	1	17-19
1929	6-25-84	1	Rpld 19-21, 19-61, 19-79
		2	19-101, 19-102
		3	Rnbd 19-22-19-24
			as 19-21-19-23

GARNER CODE

Ordinance Number	Date	Section	Section this Code
		4	Rnbd 19-62—19-66
			as 19-61—19-65
		5	Rnbd 19-80
			as 19-79
1930	6-25-84	1	6-19
		2	Rnbd 6-19—6-23
			as 6-20—6-24
1940	8- 6-84	1	Ch. 10, Art. II(title), 10-19—10-22
1951	10-16-84	1	10-84
1952	10-16-84	1	10-48(b)(4)
1953	10-16-84	1	10-84
1961	11-20-84	1	10-84
1966	12-18-84	1	10-117
1969	1- 7-85	1, 2	5-3.1
1974	2- 4-85	1	10-42(b)
1975	2-19-85	1	10-63
2009	5-21-85	1	17-25
2016	6-26-85	1	17-19
2017	7- 1-85	1	17-25
2021	8-20-85	1	10-42(b)
2027	10- 7-85	1	10-42(b)
2033	10-22-85	1, 2	5-3.1
2034	10-22-85	1	10-42(b)
2041	11-19-85	1	Rpld 10-48(b)(3)
		2	Rnbd 10-48(b)(4)
			as 10-48(b)(3)
2050	12-17-85	1	10-84
2051	1- 6-86	1	10-42(b)
2052	1- 6-86	1	10-44
2075	4-22-86	1	10-48(b)(5)—(7)
2089	6-23-86	1	17-19
2092	7- 7-86	1	10-36
		2	Rpld 14-23
2096	8-19-86	1	10-42(b)
2117	12-16-86	1	10-42(b)
2121	1- 5-87	1	10-42(b)
		2	10-44
2129	2- 2-87	1	13-1—13-5, 13-7—13-9, 13-11, 13-13, 13-16, 13-17, 13-19—13-23, 13-27, 13-28
		2	13-33
2131	3- 3-87	1	10-42(b)
2137	3-17-87	1, 2	5-3.1
2138	4- 6-87	1	10-42(b)
2144	4-21-87	1	16-16
		3	16-61
		4	16-54
2149	5-19-87	1	10-42(b)
		2	10-44
2154	6- 1-87	1	10-84
2164	6-16-87	1	10-84.2
		2	10-85(c), (d)
2170	8- 3-87	1	10-42(b)
2172	8-18-87	1	10-42(b)

CODE COMPARATIVE TABLE

Ordinance Number	Date	Section	Section this Code.
2191	10- 5-87	1	17-6
		2-4	17-75(c)-(e)
		5	17-75(g)
2211	12- 7-87	1	10-42(b)
2212	12- 7-87	1	10-84
2219	12-22-87	1	10-42(b)
2231	2- 1-88	1	10-82
2232	2-16-88	1	10-84
		2	17-24(a)(3)
2145	4-19-88	1	17-24(b)(8)
		2	17-24(b)
		3	17-24(e)
2262	6- 6-88	1	10-84
2266	6-21-88	1	10-42(b)
2273	7-19-88	1	10-42(b)
2274	7-19-88	1	17-19
2275	7-19-88	1	17-25(a)
		2	Deleted 17-25(b)
		3	17-25(c)
		4	Rnbd 17-25(c), (d)
			as (b), (c)
2285	8-16-88	1	10-84
2296	9-20-88	1	3-13(b)
		2	18-1(a)
		3	18-14(a)
2300	9-26-88	1	13-21
2303	10-10-88	1	17-7-17-15
2307	11- 7-88	1, 2	5-3.1
2311	11-22-88	1	10-42(b)
2319	12-20-88	1	10-42(b)
2327	1-17-89	1, 2	10-42(b)
2331	2-21-89	1	10-42(b)
2334	3- 6-89	1	10-66
2338	3-21-89	3	Deleted 5-5(f)
2345	4-18-89	1, 2	10-84
2357	5-16-89	1	5-3.1
			5-5(f)
			5-6.1
		2	6-19
		3	Deleted 9-28
			Rnbd 9-29
			as 9-28
		4	10-20(c)
		5	17-3(d)
			17-18
			17-19
			17-23
			17-24(a), (c)(2)
			17-25
		6	Deleted 19-103(e)
			19-102(a), (c), (d)
2359	6- 5-89	1	10-84.1(b)
2362	6- 5-89	1	6-17(3)
		2	Rnbd 6-17(4)
			as (5)
		3	Added 6-17(4)
		4	6-20(b)
		5	10-118(d)
		6	10-118(e)
2365	6-20-89	1	Deleted 19-102(d), (e)
			19-102(a), (c)

GARNER CODE

Ordinance Number	Date	Section	Section this Code
2366	6-20-89	1	5-5(g)
		2	5-3
		3	5-3.1
2369	6-20-89	1	10-84
2372	7-18-89	1	10-84(b)(9)
2382	9- 5-89	1	17-74
2386	9-19-89	1	10-84
2387	9-19-89	1	17-7-17-15
2397	11- 6-89	1	7-2
		2	7-14
2410	3- 5-90	1	10-42(b)
2412	3- 5-90	1	10-103
		2	10-104
2423	5-22-90	1	10-67
2424	6- 4-90	1	10-42(b)
		2	10-48(b)(10), (11)
2431	7-17-90	1	10-42(b)
2434	7-17-90	1	17-6(b)-(e)
2438	8- 6-90	1	5-1, 5-5, 5-6, 5-6.1, 5-7
2439	8-21-90	1	10-42(b)
2441	9- 4-90	1	10-42(b)
2442	9-11-90	1	17-26
2443	9- 4-90	1	10-67(b)
2445	9-18-90	1	18-1(a)
2446	9-18-90	1	7-8(f)
		2	7-8(g)
		3-5	7-8(j)-(l)
2447	10- 1-90	1	10-42(b)
2452	10-16-90	1	10-114-10-132
2458	12- 3-90	1	10-42(b)
2459	12-18-90	1	10-42(b)
2461	1- 7-91	1	10-84.1(b)
2463	1- 7-91	1	17-80-17-88
2470	3-19-91	1	17-81(f)
2473	5- 6-91	1	10-42(b)
2479	5- 6-91	1	6-17
		2	6-18
		3	6-20(a)
		4	6-20(b)-(d)
		5	6-21
		6	6-25
2483	6-18-91	1	10-84
2497	8- 5-91	1	10-123
2511	9-17-91	1	5-6.2
2515	10- 7-91	1	10-42(b)
2530	12-17-91	1, 2	10-42(b)
2535	1- 6-92	1	10-42(b)
2537	2- 3-92	1	10-84
2538	3- 2-92	1	4-35-4-37
2542	6- 1-92	1	17-4
		2	17-6
2550	7-21-92	1	10-84
2561	11-17-92	1	4-7
2563	12-22-92	1	5-1 5-5(d) 5-6(a), (b)(1), (3) 5-6.2
2565	2- 1-93	1	10-42(b)
2569	2-16-93	1	18-1(a)

Supp. No. 7

CODE COMPARATIVE TABLE

Ordinance Number	Date	Section	Section this Code
2580	5-18-93	1	10-42(b), 10-44
2589	7-20-93	1	5-1
			5-6(b), (1), (3)
			Added 5-6(b)(6)
			Rnbd 5-6(b)(6), (7)
			as (7), (8)
2595	9- 3-93	1	10-42(b)
2609	1- 3-94	1	10-42(b)
2613	2-22-94	1	11-15(b)(11)
2629	5-17-94	1	10-42(b)
2630	5-17-94	1, 2	10-84
2637	7- 5-94	1	17-4,
			17-7—17-16,
			17-27
2639	7-19-94	1	17-26(c)
		2	17-26(g)
		3	17-26(h)
2643	9- 6-94	1	10-48(d)
2645	9- 6-94	1, 2	11-17
2659	1- 3-95	1	Rpld 10-84.1
		2	Added 10-84.1
2664	1-17-95	1	10-42(b)
2693	7-18-95	1	16-16
		2	16-28
		3	16-69
		4	16-73
		5	16-74
		6	16-75
2694	7-18-95	1	10-86
2699	9- 5-95	1, 2	10-84
2702	9-19-95	1	18-2
2704	10-17-95	1	10-42(b)
2705	11- 6-95	1	10-42(b)
2709	11-21-95	1	11-17
2721	1-16-96	1	13-1(b)(4)
		2	13-7(d)
		3	13-11
		4	13-23(7)
		5	13-24
		6	13-28(b)
		7	13-33
2734	4-16-96	1	11-19
2735	5- 6-96	1	10-84.1(c)
2736	6- 3-96	1	10-84.1(c)
2737	5- 6-96	1	11-18
2738	5- 6-96	1, 2	3-10(b), (c)
		3	Rnmb 3-10(c), (d) as (d), (e)
		4	3-10(e)
2744	7- 6-96	1	10-84.1(c)
2745	7-16-96	1	5-10
2748	7-16-96	1	17-26(c)
2750	8- 5-96	1	17-7(b)
		2—4	17-8(a)
		5	17-8(c)
		6	17-8(j)
		7	17-27(c)
2756	11- 4-96	1	10-84

GARNER CODE

Ordinance Number	Date	Section	Section this Code
		2, 3	10-85
		4	10-86
		5	10-97
2762	11-19-96	1	10-42(b)
2769	12-17-96	1	17-80(c)
		2	17-81(a), (b), (f)
2778	3-18-97	1	10-42(b)
2782	4-22-97	1	10-82
2783	4-22-97	1	10-42(b)
2788	5-5-97	1	5-3.1
		2	5-11
2794	6-17-97	1	10-42(b)
2804	7-22-97	1	10-42(b)
2808	9-2-97	1	10-42(b)
2818	11-3-97	1	10-42(b)
2822	12-1-97	1	10-42(b)
2826	1-5-98	1	10-42(b)
2829	1-20-98	1	10-42(b)
2835	3-2-98	1	10-42(b)
2839	3-17-98	1	10-79(d)
		2	10-79(e)—(g)
		3	10-79(h)
		4	10-80(2)
		5	Deleted 10-81
		6	10-82
		7	10-83(10)
		8	10-84.1
		9	10-85(a)
		10	10-99
2850	6-16-98	1	5-6(b)(5)
		2	5-6.1(a)
2851	6-16-98	1	10-48(b)(12)
2854	7-6-98	1	18-2(a)
2856	7-6-98	1	10-42(b)
2857	7-21-98	1	10-42(b)
2858	7-21-98	1	10-84.1(b)
2859	7-21-98	1	17-1(b)
2861	8-3-98	1	10-42(b)
2866	10-5-98	1	11-17
2876	11-17-98	1	10-45
2882	12-22-98	1	10-42(b)
2887	1-19-99	1	10-84
2902	4-26-99	1	18-1(c)
		2	18-2(b)(6)
		3	3-1(c)
2905	6-7-99	1	10-42(b)
2910	7-6-99	1	17-28
2929	9-21-99	1	10-82
2937	12-6-99	1	5-3(f)
2944	2-1-2000	1	10-42(b)
2957	3-21-00	1	10-42(b)
2964	4-18-00	1	16-28
2971	5-16-00	1, 2	10-103(b), (c)
		3	10-104(b)
2972	6- 5-00	1	10-42(b)
2980	7- 5-00	1	10-84
2984	7-18-00	1	10-99

CODE COMPARATIVE TABLE

Ordinance Number	Date	Section		Section this Code
2989	8- 7-00	1		3-1—3-42
2999	12-19-00	1		10-42(b)
3000	12-19-00	1	Rpld	17-18
		2	Rnbd	17-19—17-28
				as 17-18—17-27
3003	1-16-01	1		13-2
				13-13(b)
				13-22(a)
		2		13-1(3)—(6)
		3		13-3(a),(c)
		4		13-6
		5		13-7(b)
		6		13-8
		7		13-9
		8		13-12(title)
		9		13-16(b)
		10		13-17
		11	Rpld	13-18
		12		13-19(c)
		13		13-23(e),(f)
			Rpld	13-23(h)
		14		13-24
		15		13-26
		16		13-27(a)(1)
		17		13-28
		18		13-31
3007	2- 5-01	1	Added	17-90—17-97
3009	3- 5-01	1		6-17(12)
3012	3-20-01	1		10-42b
3017	4- 2-01	1	Added	10-48(13)
3021	4-17-01	1		5-1—5-11
3023	4-17-01	1	Added	9-41
3026	6- 4-01	1		10-84
3035	6-19-01	1		10-42(b)
3036	7- 2-01	1		10-84.1(c)
3038	7- 2-01	1		10-48(b)(2)
3041	7-17-01	1		10-48(b)
		2		10-48(d)
3046	9- 4-01	1		10-42(b)
3054	10-17-01	1		10-42(b)
3066	12-18-01	1	Added	3-15(c)
3069	1- 7-02	1		3-1
		2		3-12
		3		3-15
		4		3-42
		5	Added	3-43
3072	2-19-02	1		10-42(b)
3174	4- 1-02	1		10-42(b)
3191	6-18-02	1, 2		10-42(b)
3192	6- 8-02	1		3-1
		2		3-5(b)
		3		3-11(a),(c)
		4		3-12
		5		3-13
		6		3-15(b)(8)
		7		3-22
		8		3-25

GARNER CODE

Ordinance Number	Date	Section	Section this Code
		9	3-43
3194	7- 1-02	1	10-42(b)
3195	7- 1-02	1	10-84
3198	7- 1-02	1	3-13
3199	7- 1-02	1	3-13
3203	8- 5-02	1	10-42(b)
3204	8- 5-02	1	10-44
3206	8-20-02	1	11-20
3207	9- 3-02	1	10-42(b)
3208	9- 3-02	1	11-15(b)(11)
3216	10-22-02	1	10-42(b)
3225	12- 2-02	1	Added 19-100
		2	6-17(2), (3), (8)
		3	6-25(b)
		4	Added 6-26
3234	3-17-03	1	10-42(b)
3235	3-18-03	1	5-5(d), (f)
		2	5-6.1(a), (b)
		3	5-3.1(b)
3239	4- 7-03	1	10-84.1(b)
3249	7-22-03	1	Added 4-5(c)
3254	9- 2-03	1	11-13
3256	9- 2-03	1	10-42(b)
3257	9-16-03	1	Added 13-24(d)
3264	10- 6-03	1	10-42(b)
3283	3-16-04	1	10-42(b)
3291	6- 7-04	1	10-42(b)
3298	9- 7-04	1	10-42(b)
3299	9-21-04	1	10-42(b)
3301	10- 4-04	1	10-42(b)
3313	1-18-05	1	10-42(b)
3315	2- 7-05	1	10-42(b)
3317	2-22-05	1	10-42(b)
3338	7- 5-05	1	10-42(b)
3339	7-19-05	1	10-103(c)
3340	7-19-05	1	10-42(b)
3342	7-19-05	1	Added 16-68(c)
			16-71
		2	16-72
		3	16-75
3346	8-16-05	1	10-42(b)
3353	9-20-05	1	10-42(b)
3356	9-20-05	1	10-84
3358	10- 3-05	1	10-86(a)
3360	10-18-05	1	10-42(b)
3363	11- 7-05	1	10-42(b)
3367	11-22-05	1, 2	11-17
3369	12- 5-05	1	10-42(b)
3371	12-20-05	1	10-42(b)
3378	2-21-06	1	10-42(b)
3381	2-21-06	1	Added 8-1—8-8
3384	3- 6-06	1	10-42(b)
3385	3- 6-06	1	10-42(b)
3387	3- 6-06	1	Rnbd 8-1—8-8
			as 11-50—11-57

CODE COMPARATIVE TABLE

Ordinance Number	Date	Section	Section this Code
3388	3-21-06	1	10-42(b)
3389	3-21-06	1	10-42(b)
3390	3-21-06	1	6-20(a)
		2	6-21
3399	5-16-06	1	10-84.1(c)
3400	5-16-06	1	10-42(b)
3402	5-16-06	1	10-118(e)(1)
		2	10-118(e)(2)
		3	Added 10-118(e)(4)
			10-127
3405	6-20-06	1	10-42(b)
3406	6-20-06	1	10-42(b)
3421	8-22-06	1	13-11
3425	9- 5-06		11-15(b)(11)
3426	9- 5-06	1	Added 4-10
		2	Added 4-15
		3	4-37(b)
		4	Added 4-37(d)
3435	11-21-06	1	10-84
		2	11-17
3443	12-19-06		Added 13-34
3449	1-16-07	1	10-48(6)
3459	5- 7-07		13-34(a)(2)
3460	5- 7-07	1—3	Added 19-110—19-127
3467	6-19-07	1	10-42(b)
3468	6-19-07	1	10-79(d)
		2	10-79(e)
		3	10-79(f)
3469	6-19-07	1	11-20(tit.)
3470	7-17-07		Added 19-200—19-217
3477	8- 6-07	1	10-42(b)
3479	8- 6-07	1	Rpld 3-25(f)
		2	3-25(a)
3482	8-21-07	1	10-42(b)
3483	9- 4-07	1	10-42(b)
3485	9-18-07	1	10-42(b)
3489	11- 5-07	1	10-42(b)
3509	5- 5-08	1	10-42(b)
3524	8-19-08	1—4	13-1(b)
		5	13-4
		6	13-9
		7	Added 13-9(b)(16)
		8	Added 13-9(b)(17)
		9	Rpld 13-16
		10	13-17
		11	13-22(b)
		12	13-27
3541	1- 5-09	1	10-84.1(c)
3553	6- 1-09	1	10-42(b)
3564	9- 8-09	1	13-21
3570	1- 4-10	1	11-17
3578	4- 5-10	1	Rpld 6-24
			Added 6-24
3580	5- 3-10	1	Added 6-21(c)
3589	7-20-10	1, 3	Added 6-17(17)
		2	Rnbd 6-17(17)
			as 6-17(18)

GARNER CODE

Ordinance Number	Date	Section	Section this Code
3598	9-21-10	1	3-11(b), (c)
3612	3- 7-11	1	10-42(b)
3614	3-22-11		10-48(b)(13)
3630	8- 1-11	1	Rpld 3-1—3-43 Added 3-1—3-18, 3-20—3-43
3638	11-22-11	1	18-1(a), (c), (d)
		2	18-2
3646	12-20-11	1	4-36(a)
		2	4-36(c)
3647	12-20-11	1	Added 10-48(b)(17)
3655	2-12-12	1	Added 10-48(b)(18)
3657	3- 5-12	1	Added 6-17(17), (18), (19) Rnbd 6-17(17), (18) as 6-17(20), (21)
		2, 3	Added 6-28, 6-29
		4	Added 6-24 Rnbd 6-24—6-26 as 6-25—6-27
3669	9- 4-12	1	10-84.1(c)
3680	12- 3-12	1	9-40
3691	4-16-13	1	10-48(d)
3700	7-16-13	1	10-84
3705	9- 3-13	1	10-42(b)
3707	9- 3-13	1	10-39
3710	9-17-13	1	18-2
3716	11-19-13	1	Rpld 2-2, 2-3 2-5 2-16(a) 2-17
		2	4-2 4-4 Rpld 4-7, 4-10, 4-18—4-23, 4-25, 4-26
		3	Ch. 7(tit.) 7-5(a)(3), (b)(1), (2) 7-6(a), (b) 7-7(a), (b) 7-8(i) Rpld 7-9(d), (e) 7-16
		4	Rpld 8-16—8-25
		5	12-21—12-23 12-25
		6	Rpld 13-1—13-13, 13-15, 13-17, 13-19—13-34
		7	Rpld 13.1-16—13.1-20 Added 13.1-1
		8	Rpld 17-1 17-4(b), (d), (g) Rpld 17-7—17-23 17-25(c) Rpld 17-26, 17-27,

CODE COMPARATIVE TABLE

Ordinance Number	Date	Section	Section this Code
			17-61—17-69
			17-70(a), (b)
		Rpld	17-71,
			17-80
			17-81(a)
		Rpld	17-82—17-88
		Rpld	19-2
			19-14
		Rpld	19-15—19-22
			19-40
		Rpld	19-46—19-65,
			19-78, 19-79,
			19-91—19-93
			19-100(e), (g)
		Rpld	19-100(h), (i),
			19-101, 19-102
		Rpld	App. A, §§ I—XVII
3738	6- 2-14	Art. 10	
		1	3-1
		2	3-5(a)
		3	Rpld 3-5(c)
			Rnbd 3-5(d), (e)
			as 3-5(c), (d)
		4	Added 3-6
		5—8	Rnbd 3-6—3-9
			as 3-7—3-10
		9	Rpld 3-10
		10	3-15(a)—(c)
		11	3-25
3741	7-22-14	1	6-17(a)
3747	10- 6-14	1	10-84
3753	12- 1-14		Rpld 9-51—9-54,
			9-55(a)—(c),
			9-57—9-64,
			9-65(d)—(f)
3776	7- 7-15	1	10-84
3779	7- 7-15	1	Rpld 3-7, 3-8,
			9-1—9-3,
			9-16—9-28
3788	10- 5-15	1	Added 9-16—9-19
3792	10-20-15	1	9-40
		2	16-16—16-21
			Rpld 16-22
			16-23—16-45
		3	16-52—16-54
			Rpld 16-55—16-57
			16-58—16-61
			16-67—16-72
		Rpld	16-73
			16-74—16-77
3815	5-17-16	I	11-10
3816	6- 6-16	I	11-18
3824	8- 1-16	1A	4-37(c)
		1B	Added 4-16
3833	11-22-16	1	3-1
		2	3-17
		3	3-25
		4	Rpld 3-43

GARNER CODE

Ordinance Number	Date	Section		Section this Code
			Added	3-43
3868	8- 7-17	1		11-17
3884	9-17-17	1, 2	Rpld	17-24, 17-25
			Added	17-24
(2019)3954	3-19-19	1		10-42(b)
(2019)3978	6-18-19	1		10-42(b)
(2019)3995	9- 3-19			15-84—15-91
(2019)3997	9-17-19			10-83(10)
(2019)4000	9-17-19	1		19-201(a)
		2	Added	6-17(20)
		3	Rnbd	6-17(20),(21)
			as	6-17(21), (22)
(2019)4008	10- 7-19	1, 2		10-42(b)
(2019)4010	10-24-19	1, 2		10-42(b)
(2019)4011	10-24-19	1, 2		10-42(b)
(2019)4012	10-24-19	1, 2		10-42(b)
(2019)4024	11- 4-19	1, 2		10-42(b)
(2020)4044	3- 2-20	1		10-42(b)
(2020)4045	3- 2-20	1		10-42(b)
(2020)4098	12-22-20	1		11-17
(2021)5000	1- 4-21	1		10-42(b)
(2021)5001	1- 4-21	1		10-42(b)
(2021)5002	1- 4-21	1		10-42(b)
(2021)5003	1- 4-21	1		10-42(b)
(2021)5008	1-19-21	1		10-42(b)
(2021)5011	2- 1-21		Rpld	3-1—3-6, 3-9—3-18, 3-20—3-43
			Added	3-1—36, 3-9—3-13, 3-15—3-18, 3-20—3-43
(2021)2456	7- 6-21	1		11-17
(2021)5027	4-20-21	1		10-66
(2021)5062	9-21-21	1		10-84
(2021)5076	11- 1-21	1		10-42(b)
(2021)5077	11- 1-21	1		10-42(b)
(2021)5078	11- 1-21	1		10-42(b)
(2021)5079	11- 1-21	1		10-42(b)
(2021)5080	11- 1-21	1		10-42(b)
(2021)5081	11- 1-21	1		10-42(b)
(2022)5091	1- 3-22	1		1-8, 3-9, 3-25, 4-4, 4-15, 4-37, 5-3.1, 5-5—5-6.1, 5-11, 6-19, 6-26, 6-27, 6-29, 9-40, 9-41, 10-77, 10-79
			Added	10-113

CODE COMPARATIVE TABLE

Ordinance Number	Date	Section	Section this Code
			10-130, 10-131, 11-2—11-9, 11-10, 11-11, 11-13—11-19, 11-43, 11-57, 15-30, 15-72, 15-88, 15-91, 16-17, 16-44, 16-45, 17-3 Added 17-16, 17-89 17-97, 18-1, 18-2, 18-13, 18-14, 19-44, 19-125
		2	Rpld 4-3
		3	Rpld 9-65
		4	Rpld 19-100
(2022)5092	1- 3-22	1	7-1, 7-2, 7-16, 7-18—7-21, 7-23
(2022)5100	2- 7-22	1	3-1
		2	3-5
		3	3-6(j)(3)
		4	3-11(d)
		5	3-17
		6	3-20
		7	3-25
		8	3-43
(2022)5134	7-19-22	1	10-42(b)
(2022)5111	8- 1-22	1	12-21
		2	12-25
		3	Rpld 12-26(c)
		4	12-27
(2022)5147	10- 3-22	1	Added 11-17(a)(5)
(2022)5151	11- 7-22	1	Rpld 9-16—9-19
			Added 9-16—9-19
		2	ch. 9, art. II(note)
(2022)5158	12- 5-22	1	10-42(b)
(2022)5159	12- 5-22	1	10-42(b)
(2022)5162	12- 5-22	1	11-17
(2023)5181	2- 6-23	1	11-17
(2023)5183	2-21-23	1	2-16
(2023)5185	3- 6-23	1	11-17
(2023)5198	5-16-23	1	2-4, 2-20 Rpld 2-21 2-25
(2023)5200	5-16-23	1	11-15
(2023)5217	8- 8-23	1	10-42(b)
(2024)5265	5- 7-24	1	10-42(b)

GARNER CODE

Ordinance Number	Date	Section	Section this Code
(2024)5266	5- 7-24	1	10-42(b)
(2024)5272	6-18-24	1	10-42(b)
(2024)5273	6-18-24	1	10-42(b)
(2024)5277	6-18-24	1	10-84
(2024)5281	7-16-24	1	10-84.1(c)

CHARTER INDEX

	Section		Section
A		E	
ADMINISTRATIVE OFFICERS AND EMPLOYEES		ELECTIONS	
Establishing other positions	4.8	Mayor. See also: MAYOR AND TOWN COUNCIL	
Administrative provisions re officers and employees. See: OFFICERS AND EMPLOYEES		Election of mayor.	3.2
ASSESSMENTS		Municipal elections	
Street and sidewalk improvements, assessments for.	5.1	Conduct of regular elections.	3.1
ATTORNEY. See: TOWN ATTORNEY		Town council. See also: MAYOR AND TOWN COUNCIL	
B		Election of	3.3
BOUNDARIES		Terms of office, etc.	2.1 et seq.
Corporate limits	1.3	See: MAYOR AND TOWN COUNCIL	
Jurisdiction of police officers.	6.1	EMERGENCIES	
BUILDING PERMITS		Mayor and town council, emergency measures, voting requirements	2.7
Public improvements, establishment of proposed street lines		Voting requirements	
Withholding building permits for erection of buildings within lines	5.2 D	Mayor, right to vote	2.2
C		F	
CLAIMS		FINANCE OFFICER	
Settlement of claimer against town.	6.2	Appointment	4.5
CLERK. See: TOWN CLERK		FINANCIAL CONSIDERATIONS	
CONDEMNATION		Assessments for street and sidewalk improvements; petition unnecessary . . .	5.1
Public improvements, establishment of proposed street lines		Settlement of claims for damage to property, personal injury, etc.	6.2
No limit to condemnation	5.2 F	Town finance officer, appointment.	4.5
CONTRACTS AND AGREEMENTS		Consolidation of functions.	4.7
Town attorney, inspecting, drafting.	4.3	Town manager, advising financial condition of town	4.2
Water and sewer extensions, contracts for	5.6	FRANCHISES	
CORPORATE LIMITS		Town attorney powers and duties	4.3
Jurisdiction of police officers.	6.1	G	
Official map of town	1.3	GOVERNING BODY	
COUNCIL-MANAGER GOVERNMENT		Form of government	4.1
Town operated under.	4.1	Mayor and town council; governing body. .	2.1
COUNCIL MEMBERS. See: MAYOR AND TOWN COUNCIL		See also: MAYOR AND TOWN COUNCIL	
D		Mayor and town council, requirements . .	2.1 et seq.
DEVELOPMENT		See also: MAYOR AND TOWN COUNCIL	
Fees from developers or property owners in lieu of		I	
Recreation facilities	6.6	ICE. See: SNOW AND ICE	
Sidewalks.	6.7	IMPROVEMENTS. See: PUBLIC IMPROVEMENTS	
		INCORPORATION	
		Name of town	1.1
		INJURIES	
		Claims against town for injuries, settlement.	6.2

GARNER CODE

	Section		Section
L		ORDINANCES, RESOLUTIONS, ETC.	
LAW ENFORCEMENT OFFICERS		(Cont'd.)	
Jurisdiction	6.1	Emergency measures, requirements	2.7
LEGAL DOCUMENTS		P	
Town attorney drafting	4.3	PLATS, PLATTING	
Town clerk's duties re	4.4	Public improvements, platting of proposed street lines	5.2
LICENSES AND PERMITS		POLICE OFFICERS	
Tax collector's duties re	4.6	Jurisdiction	6.1
M		POWERS OF TOWN	
MANAGER. See: TOWN MANAGER		Generally	1.2
MAYOR AND TOWN COUNCIL		PROPERTY	
Compensation	2.8	Damaged property, settlement of claims for	6.2
Emergency measures	2.7	Public improvements, establishment of proposed street lines	5.2 D
Governing body	2.1	Acquiring property before improvements	
Mayor		PUBLIC IMPROVEMENTS	
Term of office, duties, right to vote.	2.2	Dedications	
Mayor		Acceptance of	5.4
Election of	3.2	Sidewalks	
Mayor pro tempore	2.4	Assessments for sidewalk improvement	5.1
Meetings of board	2.5	Cleaning and repair of	5.7
Ordinances and resolutions		Street and sidewalk improvements	
Procedures	2.6	Assessments for; petition unnecessary .	5.1
Qualifications for office	2.8	Street lines	
Terms of office		Establishment of proposed	5.2
Mayor	2.2	Water and sewer connections	
Town council	2.3	Acreage charges for	5.5
Town attorney, duties regarding	4.3	Water or sewer extensions	
Town council		Contracts for	5.6
Election of members	3.3	R	
Meetings	2.5	RECREATIONAL FACILITIES	
Qualifications for office; vacancies; compensation	2.8	Developers or property owners	
Terms of office	2.3	Fees in lieu of recreation facilities	6.6
Voting requirements; quorum; emergency measures	2.7	RESOLUTIONS. See: ORDINANCES, RESOLUTIONS, ETC.	
Town manager, attending meetings of board	4.2		
Vacancies	2.8		
Voting requirement; quorum; emergency measures	2.7		
O		S	
OFFICERS AND EMPLOYEES		SNOW AND ICE	
Administrative officers and employees		Sidewalks, keeping clear	5.7
Establishing other positions	4.8	STREETS AND SIDEWALKS	
Finance officer	4.5	Developers or property owners	
Tax collector	4.6	Fees in lieu of sidewalks for	6.7
Town attorney	4.3	Street and sidewalk improvements	
Town clerk	4.4	Assessments for	5.1
Town manager, powers, duties regarding appointment, supervision, administration of town	4.2	Petition unnecessary	5.1
ORDINANCES, RESOLUTIONS, ETC.		Street lines, establishment of re public improvements	5.2
Adoption, amendment, repeal		SUITS	
Procedures	2.6	Town attorney, defending suits against town	4.3

CHARTER INDEX

	Section	Section
T		
TAXATION		
Tax collector		
Appointment	4.6	
Consolidation of functions	4.7	
TOWN ATTORNEY		
Appointment	4.3	
Claim against town, approval of town attorney for settlements	6.2	
Town manager, exceptions regarding appointments	4.2	
TOWN CLERK		
Appointment	4.4	
Consolidation of functions	4.7	
Consolidation of functions	4.7	
TOWN COUNCIL. See: MAYOR AND TOWN COUNCIL		
TOWN MANAGER		
Administrative head of government	4.2	
Consolidation of functions	4.7	
Powers, duties	4.2	
Settling claims against town	6.2	
W		
WATER AND SEWERS		
Acreage charges for water and sewer connections	5.5	
Contracts for water and sewer extensions.	5.6	

CODE INDEX

	Section		Section
A		ANIMALS AND FOWL (Cont'd.)	
ABANDONMENT		Required notification by owners of dangerous animals or dangerous dogs.....	3-20
Abandoned iceboxes		Backyard hens	3-6
Leaving accessible to children.....	11-5	Bird sanctuary	3-9
Junked and abandoned motor vehicles ...	10-114 et seq.	Confinement and control	
See: MOTOR VEHICLES AND TRAF- FIC		Dangerous animals.....	3-17
Right-of-way occupancy		Inherently dangerous mammals.....	3-16
Abandoned facilities.....	19-216	Cruelty to animals.....	3-11
ACCESS TO AREAS		Dead animals	3-4
State of emergency provisions. See also that subject		Definitions	3-1
Restrictions on access to areas.....	11-37 et seq.	Dogs or animals used for sentry or guard duty	3-21
ACCIDENTS		Horses, cattle, swine, chickens and other animals or fowl.....	3-5
Sanitary sewer system		Imposition of penalties for violations of chapter	3-25
Accidental discharges	17-70	Impoundment	
Taxicabs, reporting	16-18	Appeal of section 3-25 and dangerous animal determination	3-43
ADVERTISING		Destruction of wounded or diseased animals	3-41
Motor vehicles and traffic. See also that subject		Destruction or adoption or unredeemed animals generally	3-39
Operating vehicle on street for purpose of advertising	10-64	Generally.....	3-36
Standing, parking of vehicle in roadway to display it for sale	10-99	Notice to owner	3-37
Posting	11-7	Redemption by owner generally.....	3-38
Taxicabs, advertising restricted.....	16-43	Security bond for impounded animals .	3-42
AGENCIES OF TOWN. See: DEPART- MENTS AND OTHER AGENCIES OF TOWN		Suspected rabid animals not to be redeemed or adopted	3-40
AIRTIGHT DOORS OR LOCKS		Insects, minimum standards for control of in housing	7-9
Leaving abandoned iceboxes, etc., acces- sible to children	11-5	See also: MINIMUM HOUSING	
ALARMS		Interference with enforcement of chapter	3-24
False alarms		Law enforcement dogs excluded	3-23
Offense provisions re.....	11-20	Licensing—Dogs and cats	3-12
ALCOHOLIC BEVERAGES		Noises prohibited, listing.....	11-15
Consumption of alcoholic beverages; social district.....	11-17	Number to be kept on premises; sanitary quarters required.....	3-13
Intoxicated persons		Parades, picket lines and demonstrations	
Selling, delivering gasoline to.....	11-4	Vicious animals; prohibited conduct ...	15-88
State of emergency provisions. See also that subject		Prohibited actions	3-15
Restrictions on possession, consump- tion or transfer of intoxicating liquor	11-35	Rabies control	
Taxicab drivers, selling liquors prohibited	16-39	Area-wide emergency quarantine	3-32
AMPLIFYING DEVICES. See: SOUND AMPLIFYING DEVICE		Compliance with state law, article as supplement to state law	3-26
ANIMALS AND FOWL		Destruction or confinement of animal bitten by rabid animal.....	3-31
Animal control program		Evidence of inoculation of cats	3-29
Establishment and composition	3-2	Failure to surrender animal for quarantine or destruction.....	3-35
General duties	3-3	Inoculation of dogs, cats and other pets	3-27
		Inoculation tag.....	3-28
		Postmortem diagnosis	3-33
		Report and confinement of animals biting persons or showing symptoms of rabies.....	3-30
		Unlawful killing, releasing, etc.of certain animals	3-34

GARNER CODE

	Section		Section
ANIMALS AND FOWL (Cont'd.)		BUILDING INSPECTOR	
Requirements for an attack training facility	3-18	Unsafe buildings, general duties, orders to correct	19-36, 19-39
Teasing and molesting	3-22	Unsafe buildings. See: BUILDINGS	
Unlawful to allow fowl to run at large ...	3-10	BUILDINGS (Generally)	
Vicious animals; prohibited conduct at parades, picket lines and demonstrations	15-88	Code adopted	19-14
		Demolition of buildings. See herein: Unsafe Buildings	
ANNEXED AREAS		Erosion and sedimentation control	19-110 et seq.
Extending water and sewer main		See: EROSION AND SEDIMENTATION CONTROL	
Petition for annexation prerequisite to provisions of service	17-74	Fire limit zones	
Licensing of motor vehicles in newly annexed areas	10-19	Described	19-1
		Hazardous materials data storage boxes .	4-35 et seq.
APPROPRIATIONS		See: HAZARDOUS MATERIALS	
Ordinances saved from repeal, § 3, p. ix		Housing standards	7-1 et seq.
		See: MINIMUM HOUSING	
ASSEMBLIES		Noises prohibited, listing	11-15
Disorderly conduct at public meetings ...	11-2	Right-of-way occupancy (Installations, excavations, etc.)	19-200 et seq.
Parades, picket lines, demonstrations	15-84 et seq.	See: RIGHT-OF-WAY OCCUPANCY	
See: PARADES, PICKET LINES AND DEMONSTRATIONS		Unsafe buildings	
Riotous, disorderly conduct	11-3	Building inspector	
		General duties	19-36
ATTORNEY. See: TOWN ATTORNEY		Corrective action	
		Ordering	19-39
		Danger	
		Presumption of public danger	19-35
		Demolishing, removing building or structure	
		Building inspector authorized to order corrective action or demolition.	19-39
		Council members authorized to act upon owner's noncompliance ..	19-37
		Duty of owner	19-37
		Notice and hearing prior to ordering	19-38
		Town council's authority to effect remedies, cause demolition	19-42
		Inspector	
		Ordering corrective action	19-39
		Appeals	19-40
		Noncompliance by owner	
		Corrective action or demolition by building inspector authorized .	19-39
		Council member's authority to act upon failure of	19-37
		Willful noncompliance with orders unlawful	19-44
		Notice of hearing	
		Giving	19-38, 19-43
		Owner	
		Abatement, duty of	19-37
		Presumption of danger when council members act	19-35
		Remedies, authority	19-42
BASEMENTS			
Not used for living purposes	7-7(d)		
General housing provisions. See: MINIMUM HOUSING			
BEGGING			
Peddlers, solicitors, hawkers, itinerant merchants and vendors	9-41		
See also: PEDDLERS, CANVASSERS AND SOLICITORS (Hawkers, itinerant merchants, vendors, etc.)			
BICYCLES			
Motor vehicles and traffic. See also that subject			
Clinging to moving vehicles	10-5		
BIRD SANCTUARY			
Generally	3-9		
BONDS			
Ordinances saved from repeal, § 3, p. ix			
Security bond for impounded animals	3-42		
BOOKS, PAPERS			
Removal of books and papers from Town Hall	11-9		
BOTTLES			
Littering streets and other town property	11-11		
BOUNDARIES			
Ordinances saved from repeal, § 3, p. ix			

CODE INDEX

	Section		Section
BURNING		CODE OF ORDINANCES*	
Open burning		Adopting ordinance for town. See the preliminary pages at the beginning of this volume	
Conditions for	4-5	Altering Code	1-7
Fire prevention generally. See: FIRE PREVENTION AND PROTECTION		Catchlines	1-3
Prohibition and control of	4-4	Citing of Code	
BUSINESS REGISTRATION PROGRAM		How	1-1
Applicability of article	9-16	Definitions and rules of construction	1-2
Compliance	9-18	How Code designated and cited	1-1
Information required; fee	9-17	Ordinances, resolutions, etc.	
Violations; penalties	9-19	Preparation, approval of	2-4
BUSINESSES, PROFESSIONS		Repeal of ordinances	
Business registration program	9-16 et seq.	Effect of	1-4
See: BUSINESS REGISTRATION PROGRAM		Ordinances saved from repeal. See the adopting ordinance at the beginning of this volume	
Hazardous materials data storage boxes .	4-35 et seq.	Violations	
See: HAZARDOUS MATERIALS		Corporation, responsibility for violations by	1-9
		General penalty	1-8
C		CONSTRUCTION	
CABLE TELEVISION SYSTEMS		Minimum housing	7-1 et seq.
FRANCHISE		See: MINIMUM HOUSING	
Authority granted by	9-55	Sidewalk construction	15-54 et seq.
Conditions to use of street and public ways	9-56	See: STREETS AND SIDEWALKS	
Right-of-way occupancy (installations, excavations, etc.)	19-200	Standards and specifications for street and sidewalk construction and repair	15-70 et seq.
See: RIGHT-OF-WAY OCCUPANCY		See: STREETS AND SIDEWALKS	
Streets and public ways		CONTRACTS AND AGREEMENTS	
Conditions to use	9-56	Fire prevention, authority to negotiate agreements to provide	4-2
CALENDAR MONTH, YEAR		Ordinances saved from repeal, § 3, p. ix	
Definitions and rules of construction	1-2	Taxicabs	
CANVASSERS. See: PEDDLERS, CANVASSERS AND SOLICITORS		Filing copies of service contracts	16-23
CARVINGS		CORPORATIONS	
Obscenities in public places	11-6	Definition and rules of construction	1-2
CATASTROPHES		Responsibility for violations by	1-9
State of emergency provisions	11-31 et seq.	COUNCIL MEMBERS. See: TOWN COUNCIL	
See: STATE OF EMERGENCY		COUNTY	
CATTLE. See: ANIMALS AND FOWL		Definitions and rules of construction	1-2
CELLARS		CRISIS, PUBLIC	
Not used for living purposes	7-7(c)	State of emergency provisions	11-31 et seq.
Generally. See: MINIMUM HOUSING		See: STATE OF EMERGENCY	
CHEMICALS		CROSSWALKS	
Hazardous materials data storage boxes .	4-35 et seq.	Obstructing crosswalks	10-59
See: HAZARDOUS MATERIALS		General provisions. See: MOTOR VEHICLES AND TRAFFIC	
CHICKENS. See: ANIMALS AND FOWL			
CHILDREN. See: MINORS			
COASTERS			
Motor vehicles and traffic. See also that subject			
Clinging to moving vehicles	10-5		

***Note**—The adoption, amendment, repeal, omissions, effective date, explanation of numbering system and other matters pertaining to the use, construction and interpretation of this Code are contained in the adopting ordinance and preface which are to be found in the preliminary pages of this volume.

GARNER CODE

	Section		Section
CRUISING		DRAWINGS	
Taxicabs, cruising in search of passengers	16-37	Defacing, damaging public property	11-8
CURFEW		Obscenities in public places	11-6
State of emergency, curfew	11-34	DRIVEWAYS	
See also: STATE OF EMERGENCY		Emerging from driveway	10-57
		See also: MOTOR VEHICLES AND TRAFFIC	
D		No parking areas and fire lanes in private parking areas and driveways, traffic regulations	10-84.1 et seq.
DAMAGING PROPERTY		See: MOTOR VEHICLES AND TRAFFIC	
Defacing, damaging public property	11-8	Street and sidewalk construction and repair. See also: STREETS AND SIDEWALKS	
Right-of-way occupancy (installations, excavations, etc.)	19-200	Driveway entrance regulations adopted	15-71
See: RIGHT-OF-WAY OCCUPANCY		DRUMS	
Throwing missiles to injure	11-14	Noises prohibited, listing	11-15
DANGEROUS MATERIALS. See: HAZARDOUS MATERIALS		DWELLINGS	
DANGEROUS STRUCTURES		Buildings generally. See: BUILDINGS	
Unsafe buildings	19-35 et seq.	Housing standards	7-1 et seq.
See: BUILDINGS		See: MINIMUM HOUSING	
DEDICATIONS			
Ordinances saved from repeal, § 3, p. ix		E	
DEFACING PROPERTY		ELECTIONS	
Obscenities in public places	11-6	Elective officials, filing fee for	2-5
Public property, defacing, damaging	11-8	Filing fee for elective officials	2-5
DEMOLITION		ELECTRICAL SYSTEMS	
Noises prohibited, listing	11-15	Minimum standards for basic equipment and facilities	7-5
Unsafe buildings, demolition provisions . .	19-35 et seq.	See also: MINIMUM HOUSING	
See: BUILDINGS		EMERGENCIES	
DEMONSTRATIONS. See: PARADES, PICKET LINES AND DEMONSTRATIONS		Emergency parking zones, parking in	10-102
DEPARTMENTS AND OTHER AGENCIES OF TOWN		Parking, stopping, standing provisions. See: MOTOR VEHICLES AND TRAFFIC	
Definitions and rules of construction	1-2	Hazardous materials data storage boxes . .	4-35 et seq.
Parks and recreation department	12-22 et seq.	See: HAZARDOUS MATERIALS	
Advisory committee	12-25 et seq.	Rabies control; area-wide quarantine re. .	3-32
Police department	14-16 et seq.	See also: ANIMALS AND FOWL	
DISASTERS		State of emergency provisions	11-31 et seq.
State of emergency provisions	11-31 et seq.	See: STATE OF EMERGENCY	
See: STATE OF EMERGENCY		ENERGY UTILIZATION EQUIPMENT. See: INSULATION AND ENERGY UTILIZATION EQUIPMENT INSTALLATION	
DISCARDED ICEBOXES, REFRIGERATORS		EROSION AND SEDIMENTATION CONTROL	
Leaving abandoned iceboxes, etc., accessible to children	11-5	Appeals	19-124
DISEASE CONTROL		Applicability and enforcement	19-110
Dead animals	3-4	Approval of plans	19-115
Rabies control	3-26 et seq.	Civil relief	19-127
See: ANIMALS AND FOWL		Definitions	19-113
DISORDERLY CONDUCT		Enforcement and penalties	19-125
Engaging in	11-3	Fees	19-117
Public meetings, at	11-2	Injunctive relief	19-126
DOGS. See: ANIMALS AND FOWL			

CODE INDEX

	Section		Section
EROSION AND SEDIMENTATION CONTROL (Cont'd.)		FIRE PREVENTION AND PROTECTION (Cont'd.)	
Inspections.....	19-118	False alarms	
Jurisdiction	19-111	Offense provisions re.....	11-20
Operation in lake or natural watercourses	19-123	Fires	
Permits	19-116	Chief to investigate circumstances of..	4-24
Purposes	19-112	Fireworks.....	18-13 et seq.
Responsibility for maintenance	19-122	See: FIREWORKS	
Scope and exclusions	19-114	Hazardous materials data storage boxes .	4-35 et seq.
Special Neuse River regulations	19-121	See: HAZARDOUS MATERIALS	
Standards.....	19-119	North Carolina Fire Code	
Stormwater outlet protection.....	19-120	Enforcement of compliance with	4-15
EXCAVATIONS		Offenses	
Noises prohibited, listing.....	11-15	False alarms.....	11-20
Right-of-way occupancy (installations, excavations, etc.)	19-200	Open burning	
See: RIGHT-OF-WAY OCCUPANCY		Conditions for	4-5
Streets and sidewalks, excavations and construction generally; sidewalk construction; standards and specifications.....	15-16 et seq.	Prohibition and control of.....	4-4
See: STREETS AND SIDEWALKS		Third party inspection reporting system .	4-16
EXPLOSIVES		FIREARMS AND WEAPONS	
Fireworks	18-13 et seq.	Discharging of, seizure, applicability of provisions.....	18-1
See: FIREWORKS		Parades, picket lines and demonstrations.	
Hazardous materials data storage boxes .	4-35 et seq.	See also that subject	
See: HAZARDOUS MATERIALS		Prohibited conduct	15-88
Noises prohibited, listing.....	11-15	State of emergency provisions. See also that subject	
State of emergency provisions. See also that subject		Restrictions on possession, transportation and transfer of dangerous weapons and substances.....	11-36
Restrictions on possession, transportation and transfer of dangerous weapons and substances.....	11-36	Throwing missiles to injury or annoyance of others	11-14
		Town property, weapons prohibited on ...	18-2
F		FIREWORKS	
FALSE ALARMS		Discharge within town prohibited; applicability of provisions, penalty..	18-14
False alarms		Sale prohibited	18-13
Offense provisions re.....	11-20	FLIES. See: INSECTS	
FEMININE GENDER		FOR HIRE VEHICLES. See: TAXICABS	
Definitions and rules of construction.....	1-2	FOWL. See: ANIMALS AND FOWL	
FINANCES		FRANCHISES	
Ordinances saved from repeal, § 3, p. ix		Cable television systems franchise.....	9-55 et seq.
FINES, FORFEITURES AND PENALTIES		See: CABLE TELEVISION SYSTEMS FRANCHISE	
General penalty for Code violations.....	1-8	Ordinances saved from repeal, § 3, p. ix	
Specific penalties. See specific subjects		FRAUD	
FIRE DEPARTMENT		Taxicabs, unlawful to hire with intent to defraud driver.....	16-44
Chief		FUNERAL PROCESSIONS	
Investigating circumstances of fires ...	4-24	Driving through processions.....	10-54
Fires		Parades, picket lines and demonstrations, exemptions for funeral processions .	15-85
Investigating circumstances	4-24		
FIRE PREVENTION AND PROTECTION			
Agreement to provide fire protection			
Authority to negotiate, approval, etc..	4-2		
Construction of provisions.....	4-1		

GARNER CODE

	Section		Section
G		GENDER	
GAMES		Definitions and rules of construction. . . .	1-2
Playing games, throwing, missiles on streets, sidewalks, using, erecting and maintaining recreational devices in streets and rights-of-way.	11-13	GRASS	
		Noxious weeds and grass and similar nuisances	6-16 et seq.
		See: WEEDS AND BRUSH	
GARBAGE AND TRASH		H	
Accumulations of garbage, refuse, rubbish and waste prohibited	5-8	HANDICAPPED PERSONS	
Commercial refuse collection, large volume	5-3	Parking zones for handicapped persons . .	10-85
Construction rubbish removal and disposal	5-4	HAWKERS. See: PEDDLERS, CANVASSERS AND SOLICITORS	
Containers		HAZARDOUS MATERIALS	
When small containers are permitted .	5-3.1	Data storage boxes	
Curbside		Contents	4-36
Noncurbside trash pickups	5-7	Enforcement	4-37
Residential trash collection, curb trash collection service	5-6	Location of	4-36
Definitions	5-1	Required	4-35
Fees		Types	4-36
Late payment charges	5-9	Violations	4-37
Special collections of residential trash .	5-6.1	HEALTH AND SANITATION	
Hazardous materials data storage boxes .	4-35 et seq.	Animals, sanitary quarters required	3-13
See: HAZARDOUS MATERIALS		Dead animals	3-4
Littering streets and other town property	11-11	Hazardous materials data storage boxes .	4-35 et seq.
Noxious weeds and grass and similar nuisances	6-16 et seq.	See: HAZARDOUS MATERIALS	
See: WEEDS AND BRUSH		Housing standards for safe and sanitary maintenance of buildings	7-8
Open burning conditions	4-5	Housing standards; responsibilities of owners and occupants for maintenance, cleanliness	7-11
Permits		Insects, rodents and infestations	
Private collectors, required for	5-2	Minimum standards for housing	7-9
Private collectors		Noxious weeds and grass and similar nuisances	6-16 et seq.
Commercial refuse collection	5-3	See: WEEDS AND BRUSH	
Permits required for	5-2	Protection of public water supply	17-81 et seq.
Residential garbage collection	5-5	See: WATER AND SEWERS	
Noncurbside pickups	5-7	Rabies control	3-26 et seq.
Refuse collection	5-6	See: ANIMALS AND FOWL	
Noncurbside refuse collection	5-7	Taxicabs, sanitary condition of vehicles . .	16-26
Special collections of	5-6.1	Water, sewage, refuse, waste	
Special projects	5-6.2	Discharging of in streets a health hazard	17-5
Storage in containers regulated	5-10	HEATING SYSTEMS. See: MECHANICAL SYSTEMS	
Streets and other town property, littering	11-11	HORNS, WARNING DEVICES	
Trash collection		Noises prohibited, listing	11-15
Accumulations prohibited	5-8	Sounding of in quiet zones	10-65
Construction rubbish removal and disposal	5-4	HORSES. See: ANIMALS AND FOWL	
Late payment charges	5-9	HOSPITALS	
Noncurbside trash pickups	5-7	Hazardous materials data storage boxes .	4-35 et seq.
Residential trash collection	5-6	See: HAZARDOUS MATERIALS	
User fees for special collections of . .	5-6.1	HOTELS, MOTELS	
GASOLINE		Taxicabs, soliciting business for	16-39
Selling, delivering, releasing to intoxicated persons	11-4		
State of emergency provisions. See also that subject			
Restrictions on possession, transportation and transfer of dangerous weapons and substances	11-36		

CODE INDEX

	Section		Section
I		J	
IMPOUNDMENT		JUNKED AND ABANDONED MOTOR VEHICLES	
Animals.....	3-36 et seq.	Removal, etc.....	10-114 et seq.
See: ANIMALS AND FOWL		See: MOTOR VEHICLES AND TRAF- FIC	
IMPROVEMENTS		L	
Local improvements		LAND CLEARING	
Ordinances saved from repeal, § 3, p. ix		Open burning, conditions for purpose of land clearing.....	4-5
Noises prohibited, listing.....	11-15	LAND DISTURBING ACTIVITIES	
Streets and sidewalks, improvements. See also: STREETS AND SIDEWALKS		Erosion and sedimentation control.....	19-110 et seq.
Ordinances not affected by Code.....	15-42	See: EROSION AND SEDIMENTA- TION CONTROL	
Sidewalk construction.....	15-54 et seq.	Excavations. See that subject	
Standards and specifications for construction and repair.....	15-70 et seq.	LIBRARIES	
INDECENCY AND OBSCENITY		Noises prohibited, listing.....	11-15
Writing, painting, drawing, carving, cut- ting obscenities in public places	11-6	LICENSES AND PERMITS	
INDUSTRIAL WASTE		Business registration program.....	9-16 et seq.
Hazardous materials data storage boxes .	4-35 et seq.	See: BUSINESS REGISTRATION PROGRAM	
See: HAZARDOUS MATERIALS		Cats.....	3-12
INJURIES		Displaying goods, wares, merchandise on sidewalks.....	9-4
State of emergency provisions. See also that subject		Dogs.....	3-12
Restrictions on possession, transporta- tion and transfer of dangerous weapons and substances.....	11-36	See: ANIMALS AND FOWL	
INSECTS		Itinerant merchants, peddlers, transient vendors and solicitors.....	9-40 et seq.
Minimum standards for control of insects in housing.....	7-9	See: PEDDLERS, CANVASSERS AND SOLICITORS (Hawkers, itiner- ant merchants, vendors, etc.)	
See also: MINIMUM HOUSING		Land disturbing permits.....	19-116
INSPECTIONS		See also: EROSION AND SEDIMENTA- TION CONTROL	
Fire prevention and protection		Motor vehicle licensing provisions.....	10-18 et seq.
Third party inspection reporting system	4-16	See: MOTOR VEHICLES AND TRAF- FIC	
Inspecting housing, right of entry provi- sions.....	7-15	Open burning permits.....	4-4
See also: MINIMUM HOUSING		Parades, picket lines and demonstrations, permit requirements.....	15-89 et seq.
Taxicabs, semi-annual inspections.....	16-25	Parking	
INTERSECTIONS		Residential parking permits.....	10-103, 10-104
Motor vehicles and traffic generally.....	10-1 et seq.	Right-of-way occupancy (installations, excavations, etc.).....	19-200
See: MOTOR VEHICLES AND TRAF- FIC		See: RIGHT-OF-WAY OCCUPANCY	
Parades, picket lines, demonstrations....	15-84 et seq.	Sidewalks	
See: PARADES, PICKET LINES AND DEMONSTRATIONS		Displaying goods, wares, merchandise on.....	9-4
Sight obstructions at intersections.....	15-28 et seq.	Taxicab driver's license.....	16-67 et seq.
See: STREETS AND SIDEWALKS		See: TAXICABS	
INTOXICATED PERSONS, INTOXICAT- ING LIQUOR. See: ALCOHOLIC BEVERAGES		LIGHTS, LIGHTING	
ITINERANT MERCHANTS. See: PED- DLERS, CANVASSERS AND SOLICI- TORS		Traffic-control signs, signals and devices .	10-35 et seq.
		See: MOTOR VEHICLES AND TRAF- FIC	

Section	MINIMUM HOUSING (Cont'd.)	Section
	Chief code official	
16-61	Costs of repairs, etc., by to constitute a lien on premises	7-20
	Duties and powers	7-13
11-11	Enforcement procedures by	7-16
	Placarding for failure to comply with orders of.	7-19
	Service of complaints and orders	7-17
11-15	Chimneys	
10-97	Defective, deteriorated or in danger of falling	7-4(h)
	Cleanliness of dwellings	7-11(b)
	Complaints and orders	
	Service of.	7-17
11-5	Compliance with minimum standards for dwellings and dwelling units required	
	Conflict with other provisions	7-22
11-15	Construction permit fees	
	Definitions	19-101
	Schedule of fees; collection; double fees	19-19-101
	Definitions	7-2
	Deteriorated housing	
	Powers and duties of housing inspector	7-12
	Drainage	
1-2	Minimum standards for safe and sanitary maintenance	7-8
	Dwellings and dwelling units	
	Compliance with minimum standards for required.	7-3
11-16	Egress	
	Minimum standards for safe and sanitary maintenance	7-8
11-15	Minimum standards for structural conditions	7-4
	Electrical system	
7-5	Basic equipment and facilities, minimum standards for	7-5
	Enforcement procedures	7-16
	Facilities, equipment and structures	
	Care of by owners and occupants.	7-11(e)
7-15	Findings	7-1
7-21	Fire or panic, egress in case of	
7-16(c)	Minimum standards for structural conditions	7-4
7-14	Floors, walls, ceilings	
7-7(d)	Minimum standards for safe and sanitary maintenance	7-8
7-5	Minimum standards for structural conditions	7-4
	Garbage storage and disposal	
7-8	Minimum standards for control of.	7-9
	Habitable floor area generally	
	Minimum standards for space, use and location.	7-7
7-7	Hearings, procedures	7-16
7-7(c)		
7-8		

CODE INDEX

Section		Section
MINIMUM HOUSING (Cont'd.)		MINIMUM HOUSING (Cont'd.)
Heating system		Right of entry to make housing inspections
Basic equipment and facilities, minimum standards for	7-5	Duties of owners and occupants to permit access
Housing inspector		7-15
Duties and powers	7-12	7-15
In rem action by	7-19	Roofs
Insects, rodents and infestations		Minimum standards for structural conditions
Minimum standards for control of	7-9	7-4
Inspections		Room sizes and floor area
Housing inspector, duties and powers .	7-12	Minimum standards for space, use and location
In rem action by inspector	7-19	7-7
Right of entry to make	7-15	Rooming houses
Maintenance		Sanitary conditions
Responsibilities for owners and occupants for	7-11	7-10(3)
Rooming houses, minimum standards .	7-10(3)	Sanitary facilities
Safe and sanitary maintenance, minimum standards for	7-8	7-10(4)
Minimum standards		Sleeping area, minimum floor area . . .
Basic equipment and facilities	7-5	7-10(2)
Compliance with for dwellings and dwelling units required	7-3	Water closet, hand lavatory and bath facilities
Insects, rodents and infestations		7-10(1)
Control of	7-9	Rubbish and garbage
Rooming houses, applicable to; exceptions	7-10	Responsibilities of owner
Safe and sanitary maintenance	7-8	7-11(c)
Space, use and location	7-7	Storage and disposal
Structural conditions, minimum standards for	7-4	Minimum standards for control of . .
Ventilation	7-6	7-9
Orders		Sanitary facilities
Alternative remedies	7-21	Maintenance standards
Enforcement procedures	7-16	7-8
In personam remedy for failure to comply with	7-18	Rooming houses, standards for
In rem action by inspector, placarding for failure to comply with	7-19	7-10(4)
Remedies		Screens
Alternative remedies	7-21	Minimum standards for control of insects, rodents and infestations .
Service of	7-17	7-9
Violations, penalties	7-23	Sleeping areas
Owners and occupants		Floor area of, minimum standards . . .
Access, permitting	7-15	7-7(a)
Duty of to permit access for inspections	7-15	Rooming houses, minimum standards .
Maintenance responsibilities	7-11	7-10(2)
Plumbing fixtures		Space, use and location
Responsibilities of owners and occupants for maintenance	7-11(d)	Minimum standards
Plumbing systems		7-7
Basic equipment and facilities, minimum standards for	7-5	Stairs, porches and appurtenances
Public areas		Safe and sanitary maintenance standards
Maintenance of owners and occupants, responsibilities	7-11	7-8
Purpose	7-1	Structural conditions, standards
Repairs		7-4
Costs of repairs by chief code official to constitute a lien on premises	7-20	Street address
		Minimum standards for safe and sanitary maintenance
		7-8
		Structural conditions
		Minimum standards
		7-4
		Supplied facilities
		Minimum standards for safe and sanitary maintenance
		7-8
		Temporary certificate of compliance
		Minimum standards for safe and sanitary maintenance
		7-8
		Unfit for human habitation
		Powers and duties of housing inspector re
		7-12
		Ventilation
		Minimum standards for
		7-6
		Violations
		Enforcement procedures
		7-16
		In rem action by inspector, placarding for failure to comply with orders .
		7-19
		Penalties
		7-23
		Service complaints and orders
		7-17

GARNER CODE

	Section		Section
MINIMUM HOUSING (Cont'd.)		MOTOR VEHICLES AND TRAFFIC (Cont'd.)	
Walls, ceilings, supporting members, etc.		Emergency vehicles	
Minimum standards for structural conditions	7-4	Exemptions to authorized emergency vehicles	10-4
Water closets, hand lavatories, bath facilities		Emerging from driveway, building	10-57
Rooming houses, standards	7-10(1)	Enforcement	10-77
Weeds, noxious		Excavations	
Minimum standards for safe and sanitary maintenance	7-8	Parking in specific places prohibited ..	10-83
Windows and doors		Fire lanes in private parking areas and driveways	
Minimum standards for safe and sanitary maintenance	7-8	Parking in	10-84.1
		Signs, installing, maintaining by owner	10-84.2
MINORS		For sale	
Leaving abandoned iceboxes, etc., accessible to children	11-5	Operating vehicles on streets for purpose of advertising	10-64
		Standing, parking of vehicle in roadway to display it for sale	10-99
MONTH		Handicapped persons	
Definitions and rules of construction	1-2	Parking zones for	10-85
MOSQUITOES. See: INSECTS		Horns, warning devices	
		Sounding in quiet zones	10-65
MOTOR VEHICLES AND TRAFFIC		Intersections	
Abandoned vehicles. See herein: Junked and Abandoned Motor Vehicles		Constructing	10-59
Advertising		Parking in specific places prohibited ..	10-83
Operating vehicle on streets for purpose of	10-64	Turns at intersecting streets; unlawful procedure	10-45
Standing, parking vehicle to display for sale	10-99	Junked and abandoned motor vehicles	
Applicability of provisions		Abandoned vehicle unlawful; removal authorized	10-116
Generally	10-2	Administration	10-115
Persons propelling pushcarts or riding animals, application of provisions to	10-3	Article cumulative	10-132
Backing		Civil penalty provided	10-131
Limitations on	10-53	Definitions	10-114
Bicycles		Exceptions	10-129
Clinging to moving vehicles	10-5	Junked motor vehicles	
Bridges		Compliance with concealment requirement	10-118(c)
Parking in specific places prohibited ..	10-83	Leaving on property after order to remove prohibited	10-118(a)
Building		Location and concealment of single vehicle	10-118(b)
Emerging from	10-57	Permitted concealment or enclosure	10-118(e)
Channelized intersections		Removal	10-118(d)
Turning at	10-46	Nuisance vehicle unlawful; removal authorized	10-117
Clinging to moving vehicles	10-5	Protection against criminal or civil liability	10-128
Coasters		Removal of abandoned, nuisance or junked motor vehicles	
Clinging to moving vehicles	10-5	Exceptions to prior notice requirements	10-121
Commercial vehicles		Impounded vehicle, unlawful removal of	10-130
City streets as through streets		Owner responsible for costs	10-123
Use of by commercial vehicles prohibited	10-66	Post-towing notice requirements	10-122
General parking; regulations for trucks	10-82	Pretowing notice requirements, appeal	10-120
Crosswalks		Private property, conditions on removal from	10-127
Obstructing	10-59		
Parking in specific places prohibited ..	10-83		
Definitions	10-1		
Driveway			
Emerging from	10-57		

CODE INDEX

	Section		Section
MOTOR VEHICLES AND TRAFFIC (Cont'd.)		MOTOR VEHICLES AND TRAFFIC (Cont'd.)	
Right to inspect vehicles on private property	10-119	Advertising, operating vehicle on street for purpose of	10-64
Sale or final disposition		Angle parking	10-80
Redemption of vehicles during proceedings	10-125	Backing, limitations on	10-53
Right to probable cause hearing before	10-124	Bridges	
Unclaimed vehicles	10-126	Prohibited parking	10-83
Scrapped automobiles, truck parks, etc.		Channelized intersection, turning at ..	10-46
Littering streets and other town property	11-111	Civil enforcement of parking provisions	10-79
Licensing of motor vehicles		Crosswalks	
Definition of motor vehicle	10-18	Prohibited parking	10-83(2)
Display of number plate or sticker	10-21	Driving on left of yellow lines	10-50
Fee	10-20	Emergency parking zones	
Number plate or sticker		Parking in	10-102
Display of	10-21	Emerging from driveway, buildings	10-57
Duplicate		Enforcement	10-113
Issuance of, fee	10-22	Excavations or obstructions	
Issued	10-22	Prohibited parking	10-83(7)
Transferability	10-23	Facing on-coming traffic	
Period of license	10-20	Parking unlawful	10-80(3)
Required	10-20	Fire lanes	
Residents in newly annexed areas		No parking in, designation of areas .	10-84.1
Licensing	10-19	Fire lanes in private parking areas, driveways	
Unlicensed vehicle		Owner, lessee to install, maintain ..	10-84.2
Unlawful to operate	10-20	Flashing beacon, traffic-control signal	
Loading zones		Prohibited parking	10-83(4)
Parking in	10-97	Freshly painted directional signs	
Motorcycles		Driving over	10-55
Clinging to moving vehicles	10-5	Grade crossings	
Moving vehicles from stopped position ...	10-56	Prohibited parking	10-83(6)
No through traffic	10-67	Handicapped	
Noises prohibited, listing	11-15	Parking zones for	10-85
Number plate or sticker. See herein: Licensing of Motor Vehicles		Intersections	
Obstructing intersections, crosswalks	10-59	Prohibited parking	10-83(3)
Obstructing traffic		Loading and unloading of merchandise	
Unlawful	10-101	Parking generally	10-80
One-way streets		Loading zones	
Driving on	10-51	Parking in	10-97
Ordinances designating not affected by provisions	10-52	Moving vehicles from stopped position.	10-56
Operation of vehicles. See also herein specific subjects		No parking zone	
Requirements enumerated	10-35 et seq.	Enumeration of streets	10-84
Ordinances continuing in full force and effect not affected by Code		Obstructing traffic, unlawful	10-101
Designating one-way streets	10-52	One-way streets	
Intersections where traffic-control lights required	10-41	Driving on	10-51
Through streets	10-43	Ordinances designating, not affected by code	10-52
Painted directional signs		Ordinances saved from repeal, § 3, p. ix	
Driving over freshly painted directional signs	10-55	Parking	
Parking meter zones, spaces		Manner of parking generally	10-80
Ordinances saved from repeal, § 3, p. ix		Parking violations department	
Parking, stopping and standing		Established, enforcement of parking provisions	10-79
Advertising		Police chief	
Displaying for sale	10-99	Authorized to remove violating vehicles	10-78
		Processions, driving through; applicability of provisions	10-54
		Prohibited parking in specific places ..	10-83

GARNER CODE

	Section		Section
MOTOR VEHICLES AND TRAFFIC (Cont'd.)		MOTOR VEHICLES AND TRAFFIC (Cont'd.)	
Railroad underpasses		Pushcarts	
Prohibited parking	10-83(5)	Persons propelling, application of provisions to	10-3
Repairing vehicle		Quiet zones	
Parking for	10-99	Sounding horns, warning devices in ...	10-65
Residential parking permit		Railroads and trains	
Issuance and use	10-104	Speed of vehicles on rails	10-49
Zones	10-104	Roller skates	
Restricted parking	10-86	Clinging to moving vehicles	10-5
Sidewalks		Safety zone	
Driving on	10-58	Driving through	10-62
Prohibited parking	10-83(1)	Sidewalks	
Specific places		Driving on	10-58
Prohibited parking in	10-83	Parking in specific places prohibited ..	10-83
Speed restrictions	10-48	Sleds	
Stop intersections		Clinging to moving vehicles	10-5
Observance of sign required; intersections enumerated	10-42	Speed regulations	
Stop sign		Restrictions	10-48
Prohibited parking	10-83(4)	Vehicles on rails, speed	10-49
Street edge or curb		Stop intersections	
Prohibited parking	10-83(9)	Observance of sign required, intersections enumerated	10-42
Traffic-control signs, signals and devices. See herein that subject		Taxes	
Trucks and trailers		Motor vehicles to be listed for property taxes	10-6
General parking regulations for	10-82	Through streets	
Turning movements		Ordinances designating through streets	
Obedience to signs restricting	10-49	Continuing in full force and effect ..	10-43
Violating vehicles		Toy vehicles	
Police chief are authorized to remove	10-78	Clinging to moving vehicles	10-5
Violations		Traffic-control signs, signals and devices	
Enumeration of parking violations ..	10-79(d)	Authority to erect	10-36
Notification of violators	10-79(b)	Flashing red and yellow signals	10-38
Parking violations department		Freshly painted directional signs, driving over	10-55
Established	10-79(a)	Interfering with	10-40
Towing of illegally parked vehicles ..	10-79(f)	Intersection where lights required	
Yielding right-of-way		Ordinances designating, continuation of	10-41
Intersections at which vehicles shall	10-44	Obedience to	10-37
Parks of town		Obedience to signs restricting turning movements	10-39
Driving in	10-63	Ordinances saved from repeal, § 3, p. ix	
Passers by		Parking in specific places prohibited ..	10-83
Unlawful to fail to remove vehicle for convenience of	10-60	Signal legend	10-35
Peddlers, solicitors, hawkers, itinerant merchants and vendors; vehicle interference	9-41	Stop intersections; observance of sign required; intersections enumerated	10-42
See also: PEDDLERS, CANVASSERS AND SOLICITORS (Hawkers, itinerant merchants, vendors, etc.)		Turning movements, signs restricting	
Permits		Obedience	10-39
Residential parking permit. See herein: Parking, Stopping and Standing		Trucks	
Play streets		General parking regulations for	10-82
Driving on	10-61	Turning movements	
Processions		Emergency vehicles exemption	10-4
Driving through, applicability of provisions	10-54	Obedience	10-39
Property taxes		Ordinances safe from repeal, § 3, p. ix	
Motor vehicles to be listed for	10-6	Turning at channelized intersections ..	10-46
		Unlawful to fail to remove vehicle for convenience of passers by	10-60

CODE INDEX

	Section		Section
MOTOR VEHICLES AND TRAFFIC (Cont'd.)		OFFENSES	
Yielding right-of-way		Abandoned iceboxes, refrigerators with airtight doors or locks	
Intersections, enumerations	10-44	Leaving accessible to children.....	11-5
MOTORCYCLES		Advertising	
Motor vehicles and traffic. See also that subject		Posting.....	11-7
Clinging to moving vehicles.....	10-5	Alcoholic beverages	
Noises prohibited, listing.....	11-15	Consumption of alcoholic beverages; social district	11-17
MUSICAL INSTRUMENTS		Books and papers	
Noises prohibited, listing.....	11-15	Removal from Town Hall	11-9
		Breach of peace, committing.....	11-3
N		Defacing, damaging public property	11-8
NEUSE RIVER		Disorderly conduct	
Erosion and sedimentation control		Engaging in unlawful	11-3
Special Neuse River regulations	19-121	Public meetings, disorderly conduct at.	11-2
NOISE		False alarms	
Particular noises prohibited, listing.....	11-15(b)	Definitions	11-20(c)
Unreasonable noises prohibited, listing ..	11-15(a)	Methods of enforcement	11-20(f)
Violation	11-15(c)	Obligations of alarm users.....	11-20(g)
NUISANCES		Penalty.....	11-20(a)
Junked and abandoned motor vehicles ...	10-114 et seq.	Amount.....	11-20(b)
See: MOTOR VEHICLES AND TRAFFIC		Response to alarm	
Noxious weeds and grass and similar nuisances	6-16 et seq.	Determination of validity	11-20(d)
See: WEEDS AND BRUSH		Discontinuance of response.....	11-20(e)
Sight obstructions at intersections, declaration of nuisance	15-28 et seq.	Games	
See: STREETS AND SIDEWALKS		Playing games, throwing, missiles on streets, sidewalks, using, erecting and maintaining recreational devices in streets and rights-of-way	11-13
Unsafe buildings, nuisance presumption, etc.	19-35 et seq.	Gasoline	
See also: BUILDINGS		Selling, delivering, releasing to intoxicated persons.....	11-4
Water, sewage, refuse, waste		Graffiti prohibited	11-50
Discharging in street a health hazard and nuisance; abatement	17-5	Abatement conference	11-56
		Definitions	11-51
O		Enforcement	11-57
OATH, AFFIRMATION, SWEAR OR SWORN		Notice of removal	11-53
Auxiliary policemen, oath	14-34	Petition for relief.....	11-55
Definitions and rules of construction.....	1-2	Removal by town.....	11-54
OBSCENITY. See: INDECENCY AND OBSCENITY		Timely removal of graffiti	11-52
OBSTRUCTIONS		Intoxicated persons	
Intersections, crosswalks, obstructing....	10-59	Selling, delivering, releasing gasoline to	11-4
Parades, picket lines and demonstrations		Massages for hire or reward.....	11-16
Interfering with.....	15-91	Missiles, throwing	
Streets and sidewalks. See also that subject		Injury or annoyance of others.....	11-14
Excavations and obstructions generally		Streets, sidewalks, throwing on	11-13
Ordinances not affected by Code....	15-16	Model aircraft and unmanned aircraft on town property	11-18
Sight obstructions at intersections	15-28 et seq.	Noises	11-15
Taxicab solicitations		Obscenities	
Not to obstruct movement of persons ..	16-36	Writing, painting, drawing, carving, cutting in public places.....	11-6
Traffic obstructions	10-59, 10-101	Ordinances saved from repeal, § 3, p. ix	
		Posting of advertising.....	11-7

GARNER CODE

	Section		Section
OFFENSES (Cont'd.)		OFFICERS AND EMPLOYEES (Cont'd.)	
Rights-of-way		Fire department	
Playing games, throwing, missiles on streets, sidewalks, using, erecting and maintaining recreational devices in streets and rights-of-way	11-13	Chief to investigate circumstances of fires	4-24
Sight obstructions at intersections		Minimum housing. See also that subject	
Failure to abate nuisance upon notice to constitute	15-30	Chief code official; duties and powers ..	7-13
Specific crimes, offenses, other provisions not indexed herein. See specific subjects as alphabetically indexed		Housing inspector, duties and powers ..	7-12
State of emergency provisions		Parks and recreation department director	12-23 et seq.
Absence or disability of mayor	11-42	Police department	
Access to areas		Auxiliary of policemen	14-33 et seq.
Activities restricted	11-38	Chief	14-18 et seq.
General restrictions	11-37	Recommending personnel regulations, authority	14-20
Amendments of proclamation	11-39	OPEN BURNING. See: FIRE PREVENTION AND PROTECTION	
Curfew	11-34	ORDINANCES, RESOLUTIONS, ETC.	
Dangerous weapons and substances		Amendatory language	1-6
Restrictions on possession, transportation and transfer of ..	11-36	Chronic violators of public nuisance ordinances	
Intoxicating liquor		Annual notice	6-25
Restrictions on possession, consumption or transfer on	11-35	Code of ordinances, designation, regulations for, etc.	1-1 et seq.
Mayor		See: CODE OF ORDINANCES	
Absence or disability of	11-42	Motor vehicles and traffic. See also that subject	
Proclamation		Ordinances designating	
Amendments	11-39	Intersections where traffic-control lights required not affected by Code	10-41
Separate and superseding proclamations	11-41	One-way streets not affected by Code	10-52
Proclamation imposing prohibitions and restrictions	11-33	Through streets not affected by Code	10-43
Removal of prohibitions and restrictions	11-40	New ordinances	
Restrictions authorized	11-32	Effect of	1-6
Removal	11-40	Ordinances saved from repeal, § 3, p. ix	
Separate and superseding proclamations	11-41	Preparation, approval of	2-4
Territorial applicability	11-31	Repeal of ordinances	
Violation, penalty	11-43	Effect of	1-4
Streets, sidewalks			
Playing games, throwing, missiles on streets, sidewalks, using, erecting and maintaining recreational devices in streets and rights-of-way	11-13		
Town Hall			
Removal of books and papers from	11-9		
Town property			
Littering streets and other town property	11-11		
Use of	11-10		
Use of town property	11-10		
OFFICERS AND EMPLOYEES			
Auxiliary policemen	14-33 et seq.		
See: POLICE DEPARTMENT			
Definitions and rules of construction	1-2		
Filing fee for elective officials	2-5		

CODE INDEX

	Section		Section
PARADES, PICKET LINES AND DEMONSTRATIONS (Cont'd.)		PEDDLERS, CANVASSERS AND SOLICITORS (Hawkers, itinerant merchants, vendors, etc.) (Cont'd.)	
Required	15-86	Grounds for issuance/denial of permit .	9-40(d)
Revocation; grounds	15-89	Misdemeanor	9-40(f)
Terms and conditions	15-87	Other licenses or permits	9-40(g)
Pickets promoting different objectives		Permit	9-40(c)
Allotting time to each group	15-90	PERFORMANCES	
Prohibited conduct	15-88	Attracting attention	
Sidewalks		Noises prohibited, listing	11-15
Restrictions on picketing	15-90	PERMITS. See: LICENSES AND PERMITS	
Written or printed placards, restrictions .	15-90	PHONOGRAPHS	
PARKING		Noises prohibited, listing	11-15
Motor vehicles and traffic. See also that subject		PICKET LINES. See: PARADES, PICKET LINES AND DEMONSTRATIONS	
Parking, stopping and standing provisions	10-78 et seq.	PICTURES	
PARKS AND RECREATION		Writing, painting, drawing, carving obscenities in public places	11-6
Alcoholic beverages		PLACARDS	
Consumption of alcoholic beverages; social district	11-17	Parades, picket lines and demonstrations	15-84 et seq.
Closing of public parks	11-19	See: PARADES, PICKET LINES AND DEMONSTRATIONS	
Definitions	12-21	PLANNING	
Department of parks and recreation		Provisions re	13.1-1
Advisory committee		PLAY STREETS	
Appointment and tenure of members	12-26	Driving on play streets	10-61
Continued	12-25	General provisions. See: MOTOR VEHICLES AND TRAFFIC	
Powers and responsibilities	12-27	PLUMBING	
Cultural resources	12-22	Minimum standards for basic equipment and facilities	7-5
Director		See also: MINIMUM HOUSING	
Administrative head	12-23	PLURAL, SINGULAR WORDS	
Powers and responsibilities	12-24	Definitions and rules of construction	1-2
Generally	12-22	POLICE DEPARTMENT	
Powers and responsibilities	12-24	Auxiliary policemen	
Driving in town parks	10-63	Active duty, when policemen to be call.	14-35
Motor vehicle and traffic generally. See: MOTOR VEHICLES AND TRAFFIC		Calls	
PASSENGERS		When called to active duty; subject to call	14-35
Taxicabs, passenger requirements	16-30 et seq.	Compensation	14-36
See: TAXICABS		Duties when on duty	14-35
PAST AND PRESENT TENSE		Establishing, authority	14-33
Definitions and rules of construction	1-2	Maintaining auxiliary force, authority.	14-33
PEDDLERS, CANVASSERS AND SOLICITORS (Hawkers, itinerant merchants, vendors, etc.)		Oath	14-34
Attracting attention		Workmen's compensation	14-37
Noises prohibited, listing	11-15	Chief	
Begging, solicitation or vehicle interference	9-41	Accountable to manager or council member	14-18
Definitions	9-41(a)	Auxiliary policemen. See herein that subject	
Penalty	9-41(c)	Department rules, regulations, formulating, submitting	14-21
Provisions	9-41(b)		
Itinerant merchants, peddlers, transient vendors and solicitors			
Appeals	9-40(e)		
Definitions	9-40(a)		
General provisions	9-40(b)		

GARNER CODE

	Section		Section
POLICE DEPARTMENT (Cont'd.)		PROCLAMATIONS	
Deputizing volunteers, authority	14-25	State of emergency proclamation	11-33 et seq.
Directions of, duty to carry out.	14-19	See: STATE OF EMERGENCY	
Efficiency of department, responsibility	14-22	PROFESSIONS. See: BUSINESSES, PROFESSIONS	
Equipment	14-26	PROPERTY	
Morale of personnel, responsibility	14-22	Defacing, damaging public property	11-8
Officers, policemen accountable to chief	14-19	Definitions and rules of construction.	1-2
Personnel regulations, recommending	14-20	State of emergency provisions. See also that subject	
Reporting to council member or manager concerning police activities	14-20	Restrictions on access to areas	11-37 et seq.
Reports		Town property	
Making	14-18	Littering streets and other town property	11-11
Special, voluntary reports	14-24	Use of	11-10
Taxicab driver's license		PUSHCARTS	
Chief to approve or reject application	16-72	Motor vehicles and traffic. See also that subject	
Vested with authority given a sheriff	14-25	Application of to persons propelling pushcarts.	10-3
Composition.	14-16		
Council member or manager		Q	
Chief accountable to.	14-18	QUARANTINE	
Reporting to	14-24	Rabies control	3-26 et seq.
Department rules, formulating	14-21	See: ANIMALS AND FOWL	
Dogs, law enforcement	3-23		
Duties, generally	14-17	R	
Equipment	14-26	RABIES CONTROL. See: ANIMALS AND FOWL	
General duties	14-17	RADIOACTIVE MATERIALS	
Officers, policemen		Hazardous materials data storage boxes	4-35 et seq.
Accountable to chief.	14-19	See: HAZARDOUS MATERIALS	
Auxiliary policemen. See herein that subject		RADIOS	
Equipment	14-26	Noises prohibited, listing.	11-15
Obeying department regulations	14-19	RAILROADS AND TRAINS	
Uniforms	14-26	Cable television systems franchises	
Personnel regulations		Conditions to use of public streets and ways	9-56
Recommending.	14-20	See also: CABLE TELEVISION SYSTEMS FRANCHISE	
Police chief		Motor vehicles and traffic; speed of vehicles on rails	10-49
Sight obstructions at intersections, authority of police chief upon failure to abate	15-29	See also: MOTOR VEHICLES AND TRAFFIC	
Reports		REAL PROPERTY	
Of chief.	14-18	Definitions and rules of construction.	1-2
Special, voluntary reports	14-24	RECORD PLAYERS	
Rules, regulations		Noises prohibited, listing.	11-15
Formulating	14-21	REFRIGERATORS	
Obeying	14-19	Leaving abandoned iceboxes, etc., accessible to children	11-5
Sheriff authority			
Chief vested with	14-25		
Taxicab driver's license			
Application accompanied by police record	16-69		
Police to investigate applicant for	16-71		
Uniforms.	14-26		
Volunteers, deputizing			
Authority of chief	14-25		
POSTING			
Advertising	11-7		
PRECEDING, FOLLOWING			
Definitions and rules of construction.	1-2		
PROCESSIONS			
Driving through processions.	10-54		

CODE INDEX

	Section		Section
REFUSE AND RUBBISH		SCREENS	
Garbage, refuse, rubbish and waste	5-1 et seq.	Minimum standards for control of insects, rodents and infestations	7-9
See: GARBAGE AND TRASH		Housing generally. See: MINIMUM HOUSING	
RIGHT-OF-WAY OCCUPANCY (Installations, excavations, etc.)		SEDIMENTATION. See: EROSION AND SEDIMENTATION CONTROL	
Corridors	19-211	SEWERS	
Damage, removal and repair of other facilities	19-212	Water and sewer systems	17-2 et seq.
Definitions	19-200	See: WATER AND SEWERS	
Fees, costs		SEXUAL CONSIDERATIONS	
Abandoned facilities.	19-216	Massages for hire or reward which include touching genitals prohibited.	11-16
Annual registration fee.	19-214	Taxicab drivers; soliciting for houses of ill repute	16-39
Regulatory fees and costs.	19-213	SHERIFF	
Remedy provisions	19-215	Chief of police, vested with authority given sheriff	14-25
Review of denial, revocation, or fee imposition	19-217	See also: POLICE DEPARTMENT	
Review of fee imposition.	19-217	SIDEWALKS. See: STREETS AND SIDEWALKS	
Mapping data	19-210	SIGHT OBSTRUCTIONS AT INTERSECTIONS	
Permits	19-204	Nuisance provisions	15-28 et seq.
Applications	19-205	See: STREETS AND SIDEWALKS	
Authority of director	19-207	SIGNATURE, SUBSCRIPTION	
Issuance; conditions	19-206	Definitions and rules of construction.	1-2
Review of denial, revocation	19-217	SIGNS AND BILLBOARDS	
Revocation.	19-209	Parades, picket lines and demonstrations. See also that subject	
Work performed without a permit.	19-208	Restrictions on printed placards or signs	15-90
Registration and right-of-way occupancy .	19-201	Posting advertising	11-7
Registration information	19-202	SIGNS, SIGNALING DEVICES	
Reporting obligations of registrants.	19-203	Freshly painted directional signs, driving over	10-55
RIOTS, RIOTING		Noises prohibited, listing.	11-15
Engaging in	11-3	Traffic-control signs, signals and devices .	10-35 et seq.
State of emergency provisions	11-31 et seq.	See: MOTOR VEHICLES AND TRAFFIC	
See: STATE OF EMERGENCY		SINGULAR WORDS	
RODENT CONTROL, INFESTATIONS		Definitions and rules of construction.	1-2
Minimum standards for control of insects, rodents and infestations in housing.	7-9	SLEDS	
See also: MINIMUM HOUSING		Motor vehicles and traffic. See also that subject	
ROLLER SKATES		Clinging to moving vehicles.	10-5
Motor vehicles and traffic. See also that subject		SMOKE	
Clinging to moving vehicles.	10-5	Open burning conditions	4-5
ROOMING HOUSES		SOLICITATION	
Minimum housing; minimum standards applicable to rooming houses; exceptions.	7-10	Taxicab drivers, solicitation provisions . .	16-35 et seq.
See: MINIMUM HOUSING		See: TAXICABS	
S		SOLICITORS. See: PEDDLERS, CANVASSERS AND SOLICITORS	
SAFETY ZONES			
Driving through safety zones	10-62		
General provisions. See: MOTOR VEHICLES AND TRAFFIC			
SCHOOLS			
Noises prohibited, listing.	11-15		

GARNER CODE

	Section		Section
SOLID WASTE		STICKERS	
Garbage, refuse, rubbish and waste.....	5-1 et seq.	Number plates or stickers on vehicles, display of	10-21 et seq.
See: GARBAGE AND TRASH		Licensing of motor vehicles. See: MOTOR VEHICLES AND TRAF- FIC	
SOUND AMPLIFYING, REPRODUCTION DEVICES		STOP INTERSECTIONS	
Noises prohibited, listing.....	11-15	Enumeration of intersections.....	10-42
SPACE REQUIREMENTS		Parking, stopping and standing. See: MOTOR VEHICLES AND TRAF- FIC	
Housing standards	7-7	STORAGE	
See also: MINIMUM HOUSING		Hazardous materials data storage boxes .	4-35 et seq.
SPEED REGULATIONS		See: HAZARDOUS MATERIALS	
Speed restrictions for motor vehicles.....	10-48 et seq.	STORM WATER	
See: MOTOR VEHICLES AND TRAF- FIC		Discharge regulations.....	17-90 et seq.
STATE		See: WATER AND SEWERS	
Definitions and rules of construction.....	1-2	Erosion and sedimentation control.....	19-110 et seq.
STATE OF EMERGENCY		See: EROSION AND SEDIMENTA- TION CONTROL	
Absence or disability of mayor.....	11-42	STREETS AND SIDEWALKS	
Access to areas, restrictions	11-37	Alcoholic beverages	
Activities restricted.....	11-38	Consumption of alcoholic beverages; social district	11-17
Curfew.....	11-34	Construction and repair of streets and sidewalks; standards and specifica- tions	
Dangerous weapons and substances		Drainage pipe, installation	15-72
Restrictions on possession, transporta- tion and transfer.....	11-36	Driveway entrance regulations	
Intoxicating liquor		Adopted.....	15-71
Restrictions on possession, consump- tion, transfer	11-35	Ordinances not affected by Code	15-70
Mayor		Dedicating, etc., streets or public ways	
Absence or disability	11-42	Ordinances saved from repeal, § 3, p. ix	
Proclamation		Definitions and rules of construction.....	1-2
Amendments of	11-39	Displaying goods, wares, merchandise on sidewalks	9-4
Issuing proclamation	11-33	Drainage pipe	
Separate and superseding proclama- tions	11-41	Installation of	15-72
Violations of, penalty for.....	11-43	Driveway entrances	
Prohibitions and restrictions		Regulations adopted.....	15-71
Access to areas		Excavations and obstructions	
Activities restricted.....	11-38	Ordinances not affected by Code	15-16
Restrictions generally.....	11-37	Sight obstructions at intersections. See herein that subject	
Authorized restrictions	11-32	Health hazards	
Dangerous weapons and substances		Discharging of water, sewage, refuse, waste into streets a health hazard	17-5
Possession, transportation and transfer of	11-36	See also: WATER AND SEWERS	
Intoxicating liquor, possession, consump- tion or transfer of.....	11-35	Improvements	
Proclamation imposing	11-33	Ordinances not affected by Code	15-42
Removal of	11-40	Littering	11-11
Violations, penalties.....	11-43	Motor vehicles and traffic	10-1 et seq.
Territorial applicability	11-31	See: MOTOR VEHICLES AND TRAF- FIC	
Violations		Parades, picket lines and demonstrations	
Penalty.....	11-43	Activities exempt from provision	15-85
STATUTE REFERENCES		Additional restrictions on picketing ...	15-90
Definitions and rules of construction.....	1-2	Definitions	15-84

CODE INDEX

	Section	Section
STREETS AND SIDEWALKS (Cont'd.)		
Grounds for revocation of permit.....	15-89	

CODE INDEX

Section	Section
STREETS AND SIDEWALKS (Cont'd.)	STREETS AND SIDEWALKS (Cont'd.)
Interference with parades, picket lines and demonstrations	Sight obstructions at intersections
Marching restrictions	Abatement
Permit	Failure to abate
Application for	Authority of police chief upon
Issuance or denial	Notice
Required	Offense, constituting
Revocation of, grounds	Notice to abate
Terms and conditions	Offense, failure to abate constitutes
Pickets promoting different objectives	Nuisance, declaring
Restrictions	Standards and specifications for construc- tion and repair of streets and
Prohibited conduct	sidewalks
Sidewalks	Stop intersections, enumeration
Restrictions on picketing	See also: MOTOR VEHICLES AND
Written or printed placards or signs	TRAFFIC
Size, wording	Throwing missiles on
Playing games, throwing, missiles on streets, sidewalks, using, erecting and maintaining recreational devices in streets and rights-of-way	SWINE. See: ANIMALS AND FOWL
Posting of advertising prohibited	T
Right-of-way occupancy (installations, excavations, etc.)	TAXATION
See: RIGHT-OF-WAY OCCUPANCY	Motor vehicles and traffic. See also that subject
Sidewalk construction	Property taxes, motor vehicles to be listed for
Applicants to deposit pro rata share of costs	TAXICABS
Application	Accidents
Contents of.	Reporting
Investigation, report	Advertising restricted
Clerk to notify director of public works of deposits	Clean, sanitary condition of vehicles
Construction	Common carrier passengers, other
Private individual, supervision of. . .	Soliciting of
Supervision of	Company authorization
Costs	Application
Applicants to deposit pro rata share of	Review and public hearing; notice ..
Failure to deposit grounds for cancel- lation of approval	Where filed; to be verified; contents.
Deposits	Issuance and duration; renewal
Clerk to notify director of public works of	Limousines exception
Standards and specifications for street and sidewalk construction. See herein: Construction and Repair of Streets and Sidewalks; Standards and Specifications	Required
Supervising construction by director ..	Suspension, revocation
Sidewalks generally	Transferability
Displaying goods, wares, merchandise on	Contracts for service
Driving on sidewalk	Filing copies, penalty for violation
Other provisions. See: MOTOR VEHICLES AND TRAFFIC	Cruising in search of passengers
Picket lines and picketing on, restric- tions	Definitions
See also herein: Parades, Picket Lines and Demonstrations	Defrauding driver
	Hiring taxicab with intent to unlawful
	Designation of taxicab
	Drivers
	Acceptable manner of solicitation of passengers
	Defrauding
	Display of rate card, map required
	Engaging additional passengers
	License requirements. See herein: Driver's License
	Liquors, selling prohibited

GARNER CODE

	Section		Section
TAXICABS (Cont'd.)		TAXICABS (Cont'd.)	
Manifests		Liquors	
Availability to police	16-42	Selling prohibited	16-39
Contents of, delivering	16-41	Manifests	
Forms for, duty to furnish	16-40	Character	16-40
Keeping	16-41	Contents of	16-41
Retaining, preserving copies	16-42	Delivering	16-41
Number of passengers, restriction	16-31	Forms for	16-40
Receipt, when driver to give; contents of	16-34	Furnishing	16-40
Receiving, discharging passengers, manner	16-30	Keeping by driver	16-41
Refusal to carry orderly passenger	16-33	Police, available to	16-42
Solicitation of passengers		Retaining, preserving	16-42
Acceptable manner	16-35	Map required	16-29
Annoying or obstructing movement of persons, solicitation not to	16-36	Name of taxicab	
Common carrier passengers, other; soliciting	16-38	Designations	16-27
Cruising in search of passengers	16-37	Passengers	
Hotels, motels, houses of ill repute; soliciting business for	16-39	Annoy or obstruct movement of persons	
Driver's license		Solicitation of passengers not to	16-37
Applicant		Common carrier of passengers, other	
Authorized to appear before council upon rejection	16-72	Soliciting	16-38
Investigation of	16-71	Cruising in search of passengers	16-37
Copy of investigation	16-69	Defrauding driver, unlawful to hire taxicab with intent to	16-44
Police record	16-69	Engaging additional passengers	16-32
Application		Manner of receiving, discharging	16-30
Approval or rejection	16-72	Number, restriction	16-31
Contents	16-68	Refusal of driver to carry orderly passenger	16-33
Fee, paying upon filing	16-70	Refusal to pay fare, unlawful	16-45
Filing, where	16-68	Solicitation of	
Physician's certificate, accompanied by	16-69	Acceptable manner	16-35
Police record	16-69	Annoying or obstructing movement of persons, not to	16-36
Contents	16-74	Common carrier passengers, other	16-38
Drivers to comply with laws; failure to comply grounds for suspension, revocation of license	16-75	Cruising in search of	16-37
Duration	16-74	Hotels, motels, houses of ill repute	
Issuance	16-74	Soliciting business for	16-39
Posting	16-77	Rates. See herein: Fees, Fares	
Renewal	16-77	Receipt	
Required	16-67	Contents of	16-34
Suspension, revocation generally	16-76	Keeping	16-20, 16-21
Enforcement	16-17	When driver to give	16-34
Fares, fees		Receiving, discharging passengers, manner	16-30
Minimum fees chargeable; excessive fees	16-28	Records, data	
Notice, posting	16-28	Keeping for examination	16-20
Rate card, display of	16-29	Receipts, expenditures, keeping	16-21
Unlawful to refuse paid fare	16-45	Refusal to carry orderly passenger	16-33
Hiring taxicab with intent to defraud driver unlawful	16-44	Restriction on number of passengers	16-31
Hotels, motels		Sanitary condition of vehicles	16-26
Soliciting business for	16-39	Taxicab service	
Houses of ill repute		Duty to provide; penalty upon failure to	16-19
Soliciting business for	16-39	Vehicles	
Limousines, exception	16-61	Clean, sanitary, keeping	16-26
		Designation of taxicabs	16-27
		Inspections	
		Compliance, inspections for	16-24
		Semi-annual inspections	16-25

CODE INDEX

	Section		Section
TELEVISION		TOXIC WASTE	
Cable television systems franchise	9-55 et seq.	Hazardous materials data storage boxes . .	4-35 et seq.
See: CABLE TELEVISION SYSTEMS		See: HAZARDOUS MATERIALS	
FRANCHISE		TOY VEHICLES	
Noises prohibited, listing	11-15	Motor vehicles and traffic. See also that	
		subject	
TENSE		Clinging to moving vehicles	10-5
Definitions and rules of construction	1-2		
THROWING MISSILES		TRAFFIC. See: MOTOR VEHICLES AND	
Injury or annoyance of others by	11-14	TRAFFIC	
Streets, sidewalks, throwing missiles on . .	11-13	TRAINS. See: RAILROADS AND TRAINS	
TIME		TRANSIENT VENDORS. See: PEDDLERS,	
Definitions and rules of construction	1-2	CANVASSERS AND SOLICITORS	
Offenses		TRANSPORTATION	
Graffiti prohibited	11-50	Motor vehicles and traffic	10-1 et seq.
Timely removal of graffiti	11-52	See: MOTOR VEHICLES AND TRAF-	
TOWN		FIG	
Definitions and rules of construction	1-2	State of emergency, transportation of	
Offenses		certain provisions. See also: STATE	
Graffiti prohibited	11-50	OF EMERGENCY	
Removal by town	11-54	Restrictions on access to areas	11-37
TOWN ATTORNEY		Restrictions on transportation, sale, etc.,	
Ordinances, approval by attorney	2-4	of intoxicating liquor	11-35
TOWN COUNCIL		Transporting dangerous weapons and	
Chief of police		substances	11-36
Accountable to	14-18	TRASH	
Reporting to	14-24	Garbage, refuse, rubbish and waste	5-1 et seq.
Elective officials		See: GARBAGE AND TRASH	
Filing fee for	2-5	TRAVELING	
Filing fee for elective officials	2-5	State of emergency provisions. See also	
Meetings		that subject	
Authority to compel attendance	2-19	Restrictions on access to areas	11-37 et seq.
Debate	2-22		
Introducing, sponsoring, presenting		TREES AND SHRUBBERY	
ordinances, resolutions, etc.	2-25	Open burning conditions	4-5
Minutes of	2-20	TRUCKS	
Motion to adjourn	2-24	Motor vehicles and traffic. See also that	
Presiding officers	2-18	subject	
Quorum	2-19	General parking regulations for trucks	10-82
Regular meetings	2-16		
Silence considered an affirmative vote.	2-23		
Special meetings	2-17		
Voting, silence considered as an affirma-			
tive vote	2-23		
Ordinances, resolutions			
Preparation, approval of	2-4		
Ordinances, resolutions, etc.			
Introducing, sponsoring, presenting . .	2-25		
Unsafe buildings, requirements, authority			
of board	19-37, 19-42		
TOWN HALL			
Removal of books and papers from	11-9		
TOWN MANAGER			
Employing accountant and prescribing			
duties	2-3		

U

UTILITIES. See also: WATER AND SEWERS	
Right-of-way occupancy (installations,	
excavations, etc.)	19-200
See: RIGHT-OF-WAY OCCUPANCY	

V

VEHICLES FOR HIRE	
Taxicabs	16-16 et seq.
See: TAXICABS	
VENDORS. See: PEDDLERS, CANVASS-	
ERS AND SOLICITORS	

GARNER CODE

	Section		Section
VENTILATION		WATER AND SEWERS (Cont'd.)	
Minimum standards for housing.....	7-6	Civil penalties.....	17-97(b)
See also: MINIMUM HOUSING		Criminal penalties.....	17-97(d)
		Injunctive relief	17-97(c)
W		Exclusions.....	17-94
WALLS		Non-stormwater discharge controls....	17-96
Housing standards	7-1 et seq.	Illicit connections.....	17-96(b)
See: MINIMUM HOUSING		Illicit discharges.....	17-96(a)
WASTE		Spills	17-96(c)
Garbage, refuse, rubbish and waste.....	5-1 et seq.	Objectives	17-95
See: GARBAGE AND TRASH		Purposes	17-91
Hazardous materials data storage boxes .	4-35 et seq.	Scope.....	17-94
See: HAZARDOUS MATERIALS		Water distribution system	
WATER AND SEWERS		Connections to municipal systems.....	17-6
Connections		Discharge of into streets a health hazard	
Illicit connections re non-stormwater		and nuisance	17-5
discharge controls.....	17-96(b)	Extending water and sewer mains. See	
Municipal systems, connections, to	17-6	herein that subject	
Sanitary sewer system, connections to.	17-4	Furnishing water for household purposes	
Water meters, connecting, disconnect-		from private sources	17-2
ing, etc.....	17-3	Private sources	
Enforcement	17-16	Furnishing water for household	
Extending water and sewer mains		purposes from	17-2
Assets for costs	17-75	Rates and charges. See herein that	
Petition for annexation prerequisite to		subject	
provisions of service.....	17-74	Water meters	
Private water system		Connecting, disconnecting, bypass-	
Furnishing for households	17-2	ing, adjusting, regulating,	
Protection of public water supply		controlling	17-3
Containment devices required	17-81	WATERWAYS	
Enforcement.....	17-89	Erosion and sedimentation control	
Rates and charges		Operation in lake or natural	
Utility development fees.....	17-24	watercourses.....	19-123
Sewer system		Special Neuse River regulations	19-121
Accidental discharges	17-70	WEEDS AND BRUSH	
Connections to	17-4	Garbage, refuse, rubbish and waste.....	5-1 et seq.
Connections to municipal systems.....	17-6	See: GARBAGE AND TRASH	
Discharges		Noxious weeds and brush	
Streets		Abatement of nuisance by town; viola-	
Discharges of water, sewage, refuse,		tor may have town abate nuisance	6-21
waste into a health hazard		Alternative nuisance abatement	6-27
and nuisance	17-5	Annual notice to chronic violators of	
Abatement authority.....	17-5	public nuisance ordinances	6-25
Extending water and sewer mains. See		Boarding up residential structures by	
herein that subject		owners	6-29
Health hazards		Civil penalty provided	6-26
Discharging into streets.....	17-5	Cost of nuisance abatement to be charged	
Nuisances		to owner of premises; statement of	
Discharges in streets	17-5	changes	6-22
Rates and charges. See herein that		Duty to	
subject		Cause investigation of possible	
Use of sanitary sewer system		nuisances	6-18
Accidental discharges	17-70	Give notice of existence of nuisance	
Stormwater discharge.....	17-90	and require abatement.....	6-20
Acronyms.....	17-92	Enclosing structures	6-28
Definitions	17-93	Housing maintenance standards	7-8
Enforcement	17-97	Lien created upon failure to pay nuisance	
Authority to enter	17-97(a)	abatement costs.....	6-23
		Nonconformities	6-24

CODE INDEX

	Section	Section
WEEDS AND BRUSH (Cont'd.)		
Nuisance abatement inspection fee	6-19	
Nuisances declared	6-17	
Procedures in article not exclusive	6-16	
WELLS		
Water for household purposes furnishing from private sources	17-2	
Water distribution system. See: WATER AND SEWERS		
WORKMEN'S COMPENSATION		
Auxiliary policemen, covered by	14-37	
WRECKED VEHICLES		
Junked and abandoned motor vehicles . . .	10-114 et seq.	
See: MOTOR VEHICLES AND TRAF- FIC		
WRITINGS		
Defacing, damaging public property	11-8	
Obscenities in public places	11-6	
WRITTEN, WRITING		
Definitions and rules of construction	1-2	
Y		
YEAR		
Definitions and rules of construction	1-2	
Z		
ZONING		
Building generally	19-1 et seq.	
See: BUILDINGS		
Housing standards	7-1 et seq.	
See: MINIMUM HOUSING		
Ordinances saved from repeal, § 3, p. ix		

