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MEMORANDUM

TO: MAYOR AND BOARD OF ALDERMEN
FROM: JOHN G. WOLFE, III
DATE: AUGUST 30, 2010
SUBJECT: RECODIFICATION

Attached you will find three more Chapters of the Town Code that have been reviewed and updated. Many of the changes are the "clean-up" type as found in prior Chapters you have reviewed- entering proper names and titles, eliminating references to positions or entities that no longer exist, and modification to use words that are not gender-based. All changes proposed are marked.

We would like to point out a few substantive matters to facilitate your review of the changes. In Chapter 2, the department and employee titles and listings have been updated to reflect both organizational changes, department name changes and reorganization of some areas. The Finance section in this Chapter (Article IV) has been modified to more clearly state the need to comply with the applicable state laws that control our financial accounting system and to incorporate the Finance Policy. In Article V, a change is recommended to make the Code conform with the UDO requirements related to the Planning Board appointment. The final changes in this Chapter modify the Historic Properties section to reflect the use of the joint Forsyth County Historic Properties Commission and to remove the details regarding the Sister City Commission and adopt those by reference in the same manner we incorporate the Ordinance establishing the Community Appearance Commission.

In Chapter 10, there is one recommended substantive change that is the result of a recent modification to state law. At the request of the Zoning & Inspections Administrator, who is charged with the enforcement of the Nuisance Ordinance regulating overgrown lots, a chronic



violator section 10-1(c) has been added. So many municipalities, like Kernersville, have to cite the same property owners for the same violation each year; therefore, the Legislature changed the law to require expedited notice for owners meeting the definition of a "chronic violator" (an owner of property who was cited for violation of the overgrown lot Ordinance three times in the prior year).

ORDINANCE NO. O-2010- _____

**AN ORDINANCE AMENDING CHAPTERS 1, 2 AND 10 OF
THE CODE OF ORDINANCES OF THE TOWN OF KERNERSVILLE**

WHEREAS, the Board of Aldermen has determined that the Code of Ordinances of the Town should be reviewed regularly to ensure that the provisions contained therein are up-to-date and in conformity with state and federal laws and to make minor adjustments as needed to make the enforcement of the Ordinances more effective; and

WHEREAS, the Town Manager, Department Heads and Town Attorney have reviewed, discussed and researched the proposed Ordinance changes and recommended changes have been provided to the Board of Aldermen and after review been found to be in the best interest of the Town.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF KERNERSVILLE THAT:

1. Chapter 1 of the Code of Ordinances entitled “General Provisions” is amended to read as shown in the attached Exhibit A, which reflects adoption of all of the changes shown in the attached Exhibit B.
2. Chapter 2 of the Code of Ordinances entitled “Administration” is amended to read as shown in the attached Exhibit C, which reflects adoption of all of the changes shown in the attached Exhibit D.
3. Chapter 10 of the Code of Ordinances entitled “Nuisances” is amended to read as shown in the attached Exhibit E, which reflects adoption of all of the changes shown in the attached Exhibit F.
4. This Ordinance shall be effective upon adoption.
5. All laws and clauses of laws in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Adopted this the 7th day of September, 2010.

Dawn H. Morgan, Mayor

Attested to:

Dale F. Martin, Town Clerk

Approved as to form:

John G. Wolfe, III, Town Attorney

Chapter 1

GENERAL PROVISIONS*

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

The provisions of the following chapters and sections shall constitute and be designated the Code of Ordinances of the TownTown of Kernersville, North Carolina, and may be cited as such or as either the Kernersville TownTown Code or simply as the TownTown Code.

(Code 1980, § 1-1001)

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

In the construction of this Code and of all ordinances of the townTown, the following definitions and rules of construction shall apply, unless inconsistent with the manifest intent of the bBoard of aAldermen or the context clearly requires otherwise:

Board, unless otherwise specified, shall mean the bBoard of aAldermen of the townTown.

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 Sunday or a legal holiday, that shall be excluded.

~~*County* shall mean the County of Forsyth in the State of North Carolina.~~

Gender. Words importing the masculine gender shall include the feminine and neuter.

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 such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Officer. Whenever any officer is referred to by title, such as "mMayor," "Cehief of pPolice," etc., the reference shall be construed as if followed by the words "of the TownTown of Kernersville." Such reference shall also be construed to include any designee of such officer.

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

Person shall include a corporation, firm, partnership, association, organization and any other group of persons acting as a unit, as well as an individual.

***State law references:** Admission of Code into evidence, G.S. §§ 8-5, 160A-79; power of governing body generally, § 160A-67; authority to adopt standards of reference, §§ 160A-76,

160A-77; codification of ordinances, § 160A-77; ordinance book, § 160A-78; ordinance-making power generally, § 160A-174 et seq.; enforcement, § 160A-175.

Personal property includes every species of property except real property.

Plural, singular. Words importing the singular shall include the plural, 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 shall include real and personal property.

Real property shall include lands, tenements and hereditaments.

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 the person cannot write.

State shall mean the State of North Carolina.

Street shall mean any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct or bridge and the approaches thereto within the ~~town~~Town.

Tenant, 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~~Town shall mean the ~~Town~~Town of Kernersville, in the County~~ies~~ies of Forsyth ~~and~~and ~~Guilford~~Guilford and State of North Carolina.

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

Year shall mean a calendar year.

(Code 1980, § 1-1002)

Sec. 1-3. Section designations.

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

(Code 1980, § 1-1003)

Sec. 1-4. Effect of repeal.

(a) When any ordinance which has repealed a former ordinance, clause or provision shall itself be repealed, such repeal shall not be construed to revive such former ordinance, clause or provision.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal for an offense committed or cause of action arising under the ordinance repealed.

(Code 1980, § 1-1004)

Sec. 1-5. Provisions considered as continuations of existing ordinances.

The provisions appearing in this Code, so far as they are the same as those of the 1980 Code of the TownTown of Kernersville, North Carolina, and all ordinances adopted subsequent to such Code and included herein, shall be considered as continuations thereof and not as new enactments.

Sec. 1-6. Parenthetical and reference matter.

The matter in parentheses at the ends of sections in this Code is for information only and is not a part of this Code. Citations to the 1980 TownTown Code (Code 1980) and to later ordinances indicate only the source of such section and the text may or may not be changed by this Code. Reference matter not in parentheses is for information only and is not a part of this Code.

Sec. 1-7. Supplementation of Code.

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

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

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions.

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles.

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code).

(5) Make other nonsubstantive changes necessary to preserve the original meanings of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-8. Ordinances not affected by Code.

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

(1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code;

(2) Any ordinance or resolution promising or guaranteeing the payment of money for the [townTown](#) or authorizing the issuance of any bonds of the [townTown](#) or any evidence of the [townTown](#)'s indebtedness;

(3) Any contract or obligation assumed by the [townTown](#);

(4) Any ordinance fixing the salary of any [townTown](#) officer or employee;

(5) Any right or franchise granted by the [townTown](#);

(6) Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening, paving, etc., any street or public way in the [townTown](#);

(7) Any appropriation ordinance;

(8) Any ordinance which, by its own terms, is effective for a stated or limited term;

(9) Any ordinance providing for local improvements and assessing taxes therefor;

(10) Any zoning ordinance;

(11) Any ordinance dedicating or accepting any subdivision plat;

(12) Any ordinance describing or altering the boundaries of the [townTown](#);

(13) Any ordinance relating to social security and retirement benefits for cityTown officers and employees;

(14) The administrative ordinances or resolutions of the cityTown not in conflict or inconsistent with the provisions of this Code;

(15) Any ordinance levying or imposing taxes not included herein;

(16) Any ordinance establishing or prescribing street grades in the townTown;

(17) Any ordinance enacted after June 6, 1989;

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

Sec. 1-9. Schedule of current fees, rates, charges.

The townTown eClerk shall maintain a file entitled Current Schedule of Fees, Rates, and Charges of the TownTown of Kernersville. This file shall be updated whenever a fee, rate, or charge is amended by order of the bBoard of aAldermen.

Charter references: TownTown clerkClerk, § 15.

State law references: Ordinances kept on file and not published, F.S. § 160A-76.

Sec. 1-10. Penalties; remedies; continuing violations.

(a) In accordance with G.S. 160A-175, and unless this Code of Ordinances provides otherwise, violation of any provision hereof shall be a misdemeanor as provided in G.S. 14-4, punishable upon conviction by a fine or by imprisonment.

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

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

(Code 1980, § 1-1007)

Sec. 1-11. Altering, defacing Code or ordinance.

(a) No person in the townTown shall change or amend, by additions or deletions, any part or portion of this Code or insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever except by ordinance or resolution or other official act of the bBoard of aAldermen, which will cause the law of the townTown to be misrepresented thereby.

(b) No person shall tear or deface any of the townTown ordinances.

(Code 1980, §§ 1-1006, 1-1009)

Sec. 1-12. Violations by corporations and other associations.

(a) Any violation of this Code by any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization, while acting within the scope of his office or employment, shall in every case also be deemed to be a violation by such corporation, association or organization.

(b) Any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization shall be subject and liable to punishment as well as such corporation or unincorporated association or organization for the violation by it of any provisions of this Code, where such violation was the act or omission, or the result of the act, omission or order, of any such person.

Sec. 1-13. Severability clause.

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 or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code since the same would have been enacted by the ~~b~~Board of ~~a~~Aldermen without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

(Code 1980, § 1-1008)

Sec. 1-14. Amendments.

(a) All ordinances passed subsequent to this Code, which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of chapters, sections and subsections, or any part thereof, repealed by subsequent ordinances, 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 as this Code and subsequent ordinances numbered or omitted are readopted as a new code of ordinances by the ~~b~~Board of ~~a~~Aldermen.

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

(c) If a new section, not heretofore existing in the Code, is to be added, the addition shall be made in substantially the following language: "That the Code of Ordinances, ~~Town~~Town of Kernersville, North Carolina, is hereby amended by adding a section, to be numbered _____, which said section reads as follows:" The new section shall then be set out in full as desired.

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

(Code 1980, § 1-1005)

Chapter 2
ADMINISTRATION

- Art. I. In General, §§ 2-1--2-25
- Art. II. Board of Aldermen, §§ 2-26--2-95
 - Div. 1. Generally, §§ 2-26--2-40
 - Div. 2. Election, §§ 2-41--2-60
 - Div. 3. Meetings, §§ 2-61--2-75
 - Div. 4. Ordinance-Making Procedure, §§ 2-76--2-95
- Art. III. ~~Town~~Town Manager, §§ 2-96--2-115
- Art. IV. Finances, §§ 2-116--2-140
- Art. V. Planning Board, §§ 2-141--2-160
- Art. VI. Community Appearance Commission, §§ 2-161--2-180
- Art. VII. Historic Properties Commission, §§ 2-181--2-190
- Art. VIII. Sister City Commission, §§ 2-191--2-200
- Art. IX. Terms of Office on ~~Town~~Town Boards and Commissions, §§ 2-201, 2-202

ARTICLE I. IN GENERAL

Sec. 2-1. Departments enumerated.

The ~~town~~Town ~~man~~Manager shall administer the functions and activities of the ~~town~~Town generally through the following departments:

- (1) Administrative~~veon~~ department;
- (2) Finance department;
- (3) ~~Planning, zoning, inspections and enforcement~~Community Development department;
- (4) Police department;
- (5) Fire ~~Rescue~~ department;
- (6) Engineering department, including the following:
 - a. Stormwater;
 - b. Construction; and
 - c. Engineering
- (7) ~~Parks and~~ Recreation department; and
- (8) Public ~~works~~Services department, including the following:

~~a. Utilities;~~

~~ba. Sanitation;~~

~~eb. Streets; and~~

~~ec. Garage-Central Maintenance~~

(9) Human Resources department

(10) Information Services department.

(Code 1980, § 2-2001)

Charter references: Town manager form of government, § 12.

Sec. 2-2. Ordinance book.

The ~~town~~Town e Clerk shall maintain a file or book entitled an "ordinance book," separate from the minute book, in which ordinances shall be kept until that time as they may be printed and inserted in this Code.

(Code 1980, § 2-1025)

State law references: Code of ordinances, G.S. § 160A-77; ordinance book requirements, § 160A-78; pleading and proving of ~~town~~Town ordinances, § 160A-79.

Sec. 2-3. Minutes.

(a) The ~~town~~Town e Clerk shall take or have taken and shall keep minutes of all regular and special meetings of the ~~b~~Board of ~~a~~Aldermen and shall have such minutes of each regular and special meeting of the ~~b~~Board read at the next following meeting of the ~~b~~Board; with the exception of ~~executive-closed~~ session minutes as provided for in paragraph (b); and, further with the exception that such reading of the minutes may be waived when copies thereof have previously been delivered to each of the members of the ~~b~~Board of ~~a~~Aldermen, or when the ~~b~~Board may otherwise waive such reading.

(b) The ~~town~~Town manager shall take or have taken, and the ~~town~~Town e Clerk shall keep minutes of all ~~executive-closed~~ sessions of the ~~B~~Board of ~~a~~Aldermen at all regular and special meetings. The ~~town~~Town manager shall deliver a copy of such ~~executive-closed~~ session minutes to each ~~b~~Board member prior to the next ~~following~~ meeting of the ~~b~~Board.

(c) All minutes of the ~~b~~Board's meetings, whether regular or special and whether in open or ~~executive-closed~~ sessions shall be duly approved by the ~~b~~Board.

(Code 1980, § 2-1015)

State law references: Similar provisions, G.S. § 160A-72.

Secs. 2-4--2-25. Reserved.

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ARTICLE II. BOARD OF ALDERMEN*

DIVISION 1. GENERALLY

Sec. 2-26. Resignation.

***Charter references:** Governing body, § 4.

The resignation of any member of the **bB**oard of **aA**ldermen must be tendered in writing, and shall not be acted upon until the next regular meeting of the **bB**oard unless by unanimous consent of those present.

(Code 1980, § 2-1016)

Sec. 2-27. Vacancies on the **bB**oard of **aA**ldermen.

Vacancies on the **bB**oard of **aA**ldermen shall be filled by a majority of the members of the **bB**oard of **aA**ldermen remaining in office at any regular or special meeting. Any person ~~elected~~ appointed to fill a vacancy shall hold office for the duration of the unexpired term election and until a successor has been elected and qualified.

(Code 1980, § 2-1017)

State law references: Similar provisions, G.S. § 160A-63.

Secs. 2-28--2-40. Reserved.

DIVISION 2. ELECTION*

Sec. 2-41. Method; conduct of elections; registration of voters.

(a) The method which the **towaTown** shall use to determine the results of its elections shall be the nonpartisan plurality method as set out in G.S. 163-292 as follows:

(1) When more than one person is seeking election to a single office, the candidate who receives the highest number of votes shall be declared elected.

(2) When more persons are seeking election to two (2) or more offices, constituting a group, than there are offices to be filled, those candidates receiving the highest number of votes, equal in number to the number of offices to be filled, shall be declared elected.

(3) If two (2) or more candidates receiving the highest number of votes each receive the same number of votes, the **bB**oard of **eE**lections shall determine the winner by lot.

(b) In accordance with G.S. 163-279 et seq., the **TowaTown** of Kernersville municipal elections shall be conducted by the Forsyth County Board of Elections. The registration record

of the Forsyth County Board of Elections shall be the official registration record for voters to vote in all municipal elections.

(Code 1980, § 2-1001(a), (b))

***Charter references:** Elections, §§ 7--10.

State law references: Qualifications, G.S. §§ 160A-59, 160A-60; generally, § 163-279 et seq.; absentee ballots, § 163-302.

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Sec. 2-42. Filing fees.

Filing fees shall be set from time to time by the **bB**oard of **aA**ldermen- subject to the limitations established by the North Carolina General Statutes for such filing fees. A schedule of such fees shall be maintained on file by the ~~town~~**Town** ~~e~~**C**lerk as provided in section 1-9.

(Code 1980, § 2-1001(c))

Secs. 2-43--2-60. Reserved.

DIVISION 3. MEETINGS*

Sec. 2-61. Regular meetings.

The **bB**oard of **aA**ldermen shall hold one (1) regular meeting each month at such place and time as the **bB**oard may from time to time designate by resolution.

(Code 1980, § 2-1011)

Sec. 2-62. Special meetings.

Written or printed notice of a special meeting of the **bB**oard of **aA**ldermen shall be delivered to each member of the **bB**oard not less than forty-eight (48) hours before the hour set for the meeting. The notice shall be delivered ~~either by a member of the police department or the town clerk~~ to the Board member by a Town employee or sent to the Board member by email with proof of receipt of the email by the Board member retained by the employee sending such notice, shall state the place, day and hour of the special meeting and shall be signed by the ~~m~~**M**ayor or members calling the meeting. The purpose for which the special meeting is called shall be stated in the notice and no matter, not specifically therein mentioned, shall be considered or voted on at the special meeting. Nothing contained in this section shall operate to prevent a special meeting of the **bB**oard from being called on shorter notice if all of the members of the **bB**oard, in writing, waive notice of the same, personally attend and participate in the meeting or acquiesce in writing to the actions of the **bB**oard at a special meeting theretofore held. Any special meeting of the **bB**oard held without:

(1) Proper notice;

(2) Waiver of notice and one hundred ~~percent~~ (100%) ~~percent~~ attendance and participation; or

(3) Subsequent acquiescence in writing;

shall be an unofficial meeting of the **bB**oard and any action therein taken shall be null and void.

(Code 1980, § 2-1012)

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*State law references: Time and place, G.S. § 160A-71.

Sec. 2-63. Adjourned meetings.

Any regular or special meeting of the ~~b~~Board of ~~a~~Aldermen and any adjourned meeting thereof may adjourn to such time prior to the next regular meeting date as may be fixed by the ~~b~~Board, and no special notice shall be required for the adjourned meeting.

(Code 1980, § 2-1013)

Sec. 2-64. Rules of procedure.

Except where otherwise provided by law or ordinance, the procedure of the ~~b~~Board of ~~a~~Aldermen shall be governed by Robert's Rules of Order Revised, or a subsequent edition thereof. The Board of Aldermen shall have the authority to modify the rules from time to time.

(Code 1980, § 2-1014)

State law references: Authority, G.S. §§ 160A-71, 160A-76.

Secs. 2-65--2-75. Reserved.

DIVISION 4. ORDINANCE-MAKING PROCEDURE*

Sec. 2-76. Procedure; form; publication.

Every ordinance amending or repealing any ordinance and every new ordinance shall be proposed in writing and shall be approved as to form by the ~~town~~Town ~~a~~Attorney. Ordinances shall have ordinance and section captions.

(Code 1980, § 2-1021)

Sec. 2-77. Official copy.

A true copy of an ordinance, which has been duly enacted by the ~~b~~Board, signed by the ~~m~~Mayor, and attested to by the ~~e~~Clerk, shall be known as an official copy of any ordinance of the ~~town~~Town. All ordinances or a true copy thereof shall be inserted in the ordinance book.

(Code 1980, § 2-1022)

State law references: Similar provisions, G.S. § 160A-78.

Sec. 2-78. Amendments.

(a) An ordinance proposed to add to or replace provisions of a current ordinance of the ~~town~~Town shall set out:

- (1) The words, section or sections proposed to be stricken out and those to be inserted; and

***Charter references:** Ordinances and resolutions, § 5.

State law references: Power generally, G.S. § 160A-174 et seq.

(2) The paragraph as it would stand if so amended, if necessary to a clear understanding of the amendment.

(b) The title of the new ordinance shall contain the entire title of the ordinance amended thereby.

(Code 1980, § 2-1023)

Sec. 2-79. Record of repeal, ordainment.

Whenever a chapter, article or section of this Code is repealed, the eClerk shall make a notation of the repeal. Whenever a new chapter, article or section of this Code is ordained, the eClerk shall make a notation of such new ordinance. After the enactment of all ordinances, the ordinances of a general and substantive nature shall be printed in the format of this Code and inserted in the appropriate places herein.

(Code 1980, § 2-1024)

Sec. 2-80. Maintenance of Code; townTown ordinance service.

The townTown eClerk shall be responsible for maintenance of the TownTown Code and amendments thereto. Annually, the townTown eClerk shall distribute supplements of the TownTown Code to those individuals within the townTown government who have an authorized copy of the TownTown Code. Further, the townTown eClerk shall annually distribute said supplements to those individuals who have subscribed to the townTown ordinance service by paying the annual fee, in accordance with the eSchedule of fFees adopted by the bBoard.

(Ord. No. 91-M, 11-7-91)

Secs. 2-81--2-95. Reserved.

ARTICLE III. TOWNTOWN MANAGER*

Sec. 2-96. Organizational authority.

Under the guidelines of section 2-1, the townTown mManager shall be authorized to separate or combine various responsibilities between departments, to reassign positions and persons, to reduce or create positions subject to the availability of funds appropriated by the bBoard of aAldermen, and to make other organizational changes as hethe Town Manager deems appropriate for the orderly and efficient conduct of townTown business.

(Code 1980, § 2-2002)

*Charter references: TownTown mManager, §§ 12, 13.

State law references: Similar provisions, G.S. § 160A-147 et seq.

Sec. 2-97. Personnel administration.

(a) The ~~town~~Town ~~m~~Manager shall be responsible for the administration of all personnel matters under the general guidelines of the personnel rules as adopted by the ~~b~~Board of ~~a~~Aldermen.

(b) ~~If the position is provided for in the annual budget, T~~he ~~town~~Town ~~m~~Manager shall appoint the following persons who shall serve at ~~the Town Manager's~~his pleasure:

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- (1) ~~Town~~Town ~~e~~Clerk.
- (2) Finance ~~d~~Director.
- (3) Tax ~~e~~Collector.
- (4) Police ~~e~~Chief.
- (5) Fire ~~Rescue~~ ~~e~~Chief.
- (6) ~~Parks and~~ Recreation ~~d~~Director.
- (7) Public ~~works~~ ~~S~~ervices ~~d~~Director.
- (8) ~~Garage superintendent.~~ ~~Community Development Director.~~
- (9) ~~Sanitation superintendent.~~ ~~Engineering Director.~~
- (10) ~~Sewer superintendent.~~ ~~Information Services Director.~~
- (11) ~~Street superintendent.~~ ~~Administration department personnel.~~
- (12) ~~Town~~Town ~~engineer.~~ ~~Zoning Administrator.~~
- (13) ~~Utilities superintendent.~~ ~~Human Resources Director.~~
- (14) ~~Administrative department personnel.~~
- (15) ~~Zoning administrator.~~

(c) The ~~town~~Town ~~m~~Manager may combine or abolish the titles and/or duties of the offices enumerated in this section, subject to structures imposed by statute, ~~Town~~Town Charter, or other ordinance.

(Code 1980, §§ 2-2003, 2-2004)

State law references: Authority, G.S. § 160A-164.

Secs. 2-98--2-115. Reserved.

ARTICLE IV. FINANCE*

Sec. 2-116. Finance Director.

The Town Manager shall designate some officer or employee of the Town to perform the duties of the Finance Director as established by this Code and by state laws.

Disbursement of funds.

~~(a) In accordance with the local government budget and fiscal control act, no bill or claim against the town may be paid unless it has been approved by the officer or employee responsible for the function or agency to which the expense is charged. No check or draft of the town shall be valid unless it bears on its face the certificate of the finance director as follows: "This disbursement has been approved as required by the Local Government Budget and Fiscal Control Act."~~

~~(b) No contract, agreement or purchase order shall be valid unless it bears the finance director's certificate as follows: "This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act."~~

~~(Code 1980, § 2-3001)~~

~~State law references: Preaudit of disbursements required, G.S. § 159-28.~~

Sec. 2-117. Accounting, Budgetary and Fiscal Control Practices and Policies

(a) The Town shall comply with and maintain the highest level of accounting practices reasonably possible in accordance with the following:

(1) the North Carolina Local Government Budget and Fiscal Control Act;

(2) Generally Accepted Accounting Principles, as promulgated by the Governmental Accounting Standards Board;

(3) other applicable North Carolina General Statutes; and

(4) the Finance Policy of the Town as adopted by the Board of Aldermen.

(b) The Finance Policy of the Town, in reference to the following, is incorporated herein: budgeting, purchasing, revenues, expenditures, debt, capital improvements, cash management, investments, accounting, and fixed assets.

Finance director.

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~~The town manager shall designate some officer or employee of the town to perform the duties of the finance director as established by this Code and by state laws.~~

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(Code 1980, § 2-3002)

State law references: Duties of finance officer, G.S. § 159-25.

Sec. 2-118. Purchasing order.

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(a) Before any order is given for items to be paid for by the townTown or any purchase made by any townTown employee, a ~~purchasing~~ purchase order must first be obtained ~~from the town clerk~~ in accordance with the duly adopted Finance Policy of the Town.

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(b) Any townTown employee purchasing goods without complying with the Finance Policy a purchase order from the clerk will be held responsible for the cost of the goods.

(Code 1980, § 2-3003)

***Charter references:** Custody of Town's money, § 19; bond issuance, § 20; purchases and contracts, § 21; annual audit, § 22; officer's interest, § 23.

State law references: Taxation, G.S. Ch. 105; tax collector, § 105-349 et seq.; Local Government Budget and Fiscal Control Act, Ch. 159; budget officer, § 159-9; finance officer, § 159-24 et seq.; enforcement of taxation, § 160A-207.

Sec. 2-119. Facsimile signatures.

(a) For authorized townTown personnel, use of facsimile signature machines, signature stamps, electronic signatures, or similar devices or identifiers, or authentication techniques as permitted by the North Carolina General Statutes, are authorized for use by the townTown Manager and his designated employees on checks, drafts, purchase orders, requisitions, and other documents deemed appropriate by the Town Manager. All such usage shall be subject to the requirements established by the North Carolina State Treasurer.

~~***Charter references:** Custody of townTown's money, § 19; bond issuance, § 20; purchases and contracts, § 21; annual audit, § 22; officer's interest, § 23.~~

~~**State law references:** Taxation, G.S. Ch. 105; tax collector, § 105-349 et seq.; Local Government Budget and Fiscal Control Act, Ch. 159; budget officer, § 159-9; finance officer, § 159-24 et seq.; enforcement of taxation, § 160A-207.~~

~~designated employees on checks, drafts, purchase orders, requisitions, and other documents deemed appropriate by the townTown mManager. All such usage shall be subject to the requirements established by the North Carolina State Treasurer.~~

(b) The fFinance dDirector shall have custody of all such facsimile devices as authorized in paragraph (a) and shall be liable for any illegal, improper or unauthorized use of such.

(Code 1980, § 2-3004; Ord. No. O-2007-06, § 1, 2-6-07)

State law references: Dual signatures on checks, G.S. § 159-25.

Sec. 2-120. Performance bond.

When any performance bond is required by the TownTown, such bond shall read substantially as follows:

**NORTH CAROLINA
FORSYTH COUNTY**

KNOW ALL MEN BY THESE PRESENTS, ~~F~~that _____ as Principal, and _____, as Surety, are held and firmly bound unto the TownTown of Kernersville in the sum of _____ dollars (\$ _____) for the payment of which sum the Principal and Surety do hereby bind themselves, their heirs, executors, administrators and assigns, jointly and severally, firmly by these presents.

WHEREAS, the said Principal, as owner of that certain real estate subdivision known as _____, as shown on plat dated _____, dated _____, prepared by _____, which owner proposes to improve and develop: all of said improvements to be fully installed and said work to be completed in accordance with TownTown of Kernersville standards and specifications within _____ month(s) from the date of this bond; and

WHEREAS, the said Principal has applied to the TownTown of Kernersville of the County of Forsyth to approve the plat of said real estate development in order that same may be recorded in the Office of the Register of Deeds of Forsyth County and in order that lots in said development may be offered for sale; and

WHEREAS, the Principal has contracted and agreed to install said improvements in a manner acceptable to the TownTown Manager as being within the standards and specifications of the TownTown of Kernersville as a condition precedent to the Board of Aldermen approving the plat of said development as aforesaid;

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION IS SUCH that if the said Principal shall perform his or its agreement with the TownTown of Kernersville as aforesaid and shall fully install and construct all of said improvements in a manner acceptable to the TownTown Manager as being within the standards and specifications of the TownTown of Kernersville, then this obligation shall be null and void; otherwise, the same shall remain in full force and effect.

It is understood and agreed that the TownTown of Kernersville may institute suit on this bond, if the principal fails to perform his or its agreement as above mentioned in all respects, at any time within one (1) year following the expiration of the period specified within the work described herein is to be done.

IN WITNESS WHEREOF, the said Principal and Surety has signed and sealed this instrument, this _____ day of _____, 19_____.

By: _____ (SEAL)
Principal

By: _____ (SEAL)
Surety

(Code 1980, Appendix III)

Sec. 2-121. Files maintained.

~~The public works director shall maintain official files containing information pertinent to the operation of the public works department and the municipal utilities. These files shall include a current fees, rates, and charges of the town file and a Current Sewage Parameters file. These files shall be accessible to all interested parties and the contents shall correspond exactly to the file of schedules maintained in accordance with section 1-9 by the town clerk wherever such contents may overlap.~~

(Code 1980, § 4-1001)

Secs. 2-122--2-140. Reserved.

ARTICLE V. PLANNING BOARD*

Sec. 2-141. Created.

Pursuant to the authority conferred by the General Statutes of North Carolina, the ~~bB~~Board of ~~aA~~Aldermen hereby establishes and creates a ~~pP~~lanning ~~bB~~Board, to be known hereafter as the Kernersville Planning Board.

(Code 1980, § 2-4001)

Sec. 2-142. Membership and appointment.

The Kernersville Planning Board shall be comprised of ten (10) members. Members residing within the Town shall be appointed by the Board of Aldermen after nomination by the Nominating Committee composed of the Mayor, Town Manager and two members of the Board of Aldermen.

There shall be proportional representation allotted to residents of the extraterritorial area. The proportion shall be determined by first combining the population of the Town with the population of the extraterritorial area based on the most recent decennial census. The population of the extraterritorial area shall then be divided by the combined population to determine the proportion of the ten (10) members to be appointed from the extraterritorial area. Not less than one resident from the extraterritorial area shall be appointed, regardless of the proportion. The Town shall review the proportion and make any necessary adjustments within one hundred eighty (180) days of (1) receiving the results of the most recent decennial census, (2) being granted additional extraterritorial jurisdiction by any county, or (3) the effective date of any annexation of populated land. Members representing the extraterritorial area shall be appointed by the appropriate Board of County Commissioners in accordance with N.C.G.S. §160A-362.

Each member shall serve a three-year term. In making the original appointments, pursuant to the October 1, 1996 amendment, ~~T~~the Board of Aldermen shall stagger

extraterritorial membership (if greater than one) among the three terms and prescribe terms of less than three years as follows to assure that all members terms do not expire simultaneously:

(a) Four members with terms to expire June 30, 1999.

(b) Three members with terms to expire June 30, 1998.

(c) Three members with terms to expire June 30, 1997.

~~The planning board shall consist of ten (10) members, five (5) of which are citizens and residents of the town and who shall be appointed by the board of aldermen after nomination by the mayor, and five (5) of which are residents of that area over which the town exercises extra territorial zoning jurisdiction who shall be appointed by the Forsyth County Commissioners after nomination by the board of aldermen. Each member shall serve a three-year term provided, however, that initial terms for members who are resident of the town ("inside") and members who are resident of the area within the extra territorial zoning jurisdiction of the town ("outside") shall be appointed by the respective public body on or after the effective date of this section as follows:~~

~~(1) Two (2) inside members with terms to expire June 30, 1994. One (1) outside member with term to expire June 30, 1994.~~

~~(2) Two (2) inside members with terms to expire June 30, 1995. Two (2) outside members with terms to expire June 30, 1995.~~

***Charter references:** Subdivision control, § 27.

Cross references: Buildings and building regulations, Ch. 4; unified development, Ch. 19.

State law references: Authority, G.S. § 160A-361.

~~(3) One (1) inside member with term to expire June 30, 1996. Two (2) outside members with terms to expire June 30, 1996.~~

(Code 1980, § 2-4002; Ord. No. 93-D, 5-4-93)

State law references: Extraterritorial representatives, G.S. § 160A-362.

Sec. 2-143. Compensation.

The members of the **p**lanning **b**oard shall serve without compensation.

(Code 1980, § 2-4002)

Sec. 2-144. Powers.

(a) With the concurrence of the **b**oard of **a**ldermen, the **p**lanning **b**oard shall have the power to:

(1) Enter into and carry out contracts with the state or federal government or any agencies thereof under which such government or agencies grant financial or other assistance to the **p**lanning **b**oard;

(2) Accept such assistance or funds as may be granted by the state or federal government with such a contract;

(3) Make expenditures from any funds so granted.

(b) With the concurrence of the ~~b~~B~~o~~ard of ~~a~~A~~l~~dermen, the ~~p~~P~~l~~anning ~~b~~B~~o~~ard may enter into and carry out contracts with any city, county, or joint planning agency for technical planning assistance to be furnished by the staff of such agency, and provide compensation therefor in amounts appropriated by the ~~b~~B~~o~~ard of ~~a~~A~~l~~dermen.

(Code 1980, § 2-4003)

State law references: Similar provisions, G.S. § 160A-363.

Sec. 2-145. Duties.

(a) All powers and duties shall be exercised in accordance with rules and regulations adopted by the ~~b~~B~~o~~ard, to take effect upon the organization of such ~~b~~B~~o~~ard by the election of a ~~e~~C~~h~~airman and such other officers as may be authorized.

(b) The ~~b~~B~~o~~ard shall keep accurate records of all proceedings, which shall be made available for public inspection.

~~(c) The planning board shall submit to the board of aldermen an annual budget to provide for the expenses of carrying out the purpose of its creation. The budget may include funds for the appointment of a technical staff, on contracts for technical assistance, or the purchase of such services, equipment, supplies or materials as are required for the performance of its duties. The ~~p~~P~~l~~anning ~~b~~B~~o~~ard shall make recommendations and perform such other services as may be required by law or requested by the Board of Aldermen.~~

~~(d) The planning board shall make a report annually to the board of aldermen regarding the condition of the town ~~Town~~ and any plans or proposals for the development of the town ~~Town~~, and estimates of the cost thereof.~~

~~(e) The planning board shall make recommendations and perform such other services as may be required by law or requested by the board of aldermen.~~

(Code 1980, § 2-4004)

Secs. 2-146--2-160. Reserved.

ARTICLE VI. COMMUNITY APPEARANCE COMMISSION

Sec. 2-161. Incorporation by reference.

Ordinance No. 86-A, as amended, which created a ~~e~~C~~o~~m~~m~~unity ~~a~~A~~p~~pearance ~~e~~C~~o~~m~~m~~ission, is hereby incorporated in this article by reference and saved from repeal.

(Ord. No. 00-13, 5-2-00)

Secs. 2-162--2-180. Reserved.

ARTICLE VII. FORSYTH COUNTY HISTORIC PROPERTIES COMMISSION

Sec. 2-181. ~~Incorporation by reference~~Creation.

~~The historic properties commission ordinance is hereby incorporated in this article by reference and saved from repeal.~~The Town of Kernersville has joined with Forsyth County, the City of ~~Winston~~Winston-Salem, and the Village of Clemmons in the creation and establishment of the Forsyth County Historic Properties Commission and shall participate in the operation of said Commission as defined by said joint agreement.

Secs. 2-182--2-190. Reserved.

ARTICLE VIII. SISTER CITY COMMISSION

Sec. 2-191. ~~Creation and establishment.~~Incorporation by reference.

Ordinance No. 2003-31, as amended, which created a Sister City Commission, is hereby incorporated in this article by reference and saved from repeal.

~~A sister city commission, hereafter referred to as "commission", is hereby created and established.~~

~~(Ord. No. O-2003-31, 10-7-03)~~

~~Sec. 2-192. Composition; terms; vacancy.~~

~~The commission shall consist of no less than five (5) members nor more than eight (8) members, one (1) of whom shall be designated as chairperson by the board of aldermen. Any other officers of the commission, which may be established from time to time by the commission, shall be appointed by the commission. All members of the commission shall be citizens and residents of the town or the East Forsyth community and supportive of the two (2) and its sister city program. All members shall be appointed for a term of three (3) years, with staggered terms expiring on the June 30 each year, and shall serve until their successors are appointed and qualified. The initial appointments to the commission by the board of aldermen shall be so arranged that approximately one third (1/3) of the members will serve a term of one (1) year, one third (1/3) of the members shall serve a term of two (2) years, one third (1/3) of the members will serve a term of three (3) years. Vacancies occurring for reasons other than the expiration of term shall be filled as they occur by the board of aldermen for the period of the unexpired term. Faithful attendance of the meetings of the commission is considered a prerequisite for the maintenance of membership of the commission.~~
~~(Ord. No. O-2003-31, 10-7-03; Ord. No. O-2006-17, § 1, 5-2-06)~~

~~Sec. 2-193. Powers and duties.~~

~~The commission shall, with reference to the Town of Kernersville, have and exercise all these powers as may be conferred upon it from time to time by the board of aldermen.
(Ord. No. O-2003-31, 10-7-03)~~

~~Sec. 2-194. Rules and records.~~

~~The commission shall adopt rules for the transaction of its business and shall keep a record of its members' attendance and of its discussions, findings, recommendations, and Resolutions which record shall be a public record.
(Ord. No. O-2003-31, 10-7-03)~~

~~Sec. 2-195. Removal of members.~~

~~Members of the commission may be removed by the board of aldermen, including by recommendation of the commission, neglect of duty, malfeasance, or misfeasance in office.
(Ord. No. O-2003-31, 10-7-03)~~

~~Sec. 2-196. Compensation of members.~~

~~No member of the commission shall be compensated for his or her services on the commission.
(Ord. No. O-2003-31, 10-7-03)~~

~~Sec. 2-197. Cooperation with other agencies.~~

~~The commission shall work in cooperation with other appropriate town boards, commissions, departments, the town manager, and the board of aldermen.
(Ord. No. O-2003-31, 10-7-03)~~

~~Sec. 2-198. Annual report.~~

~~The commission shall, no later than April 15 of each year, submit to the board of aldermen a written report of its activities, together with a statement of any income and expenditures to date for the current fiscal year, and any requested budget for the next fiscal year.
(Ord. No. O-2003-31, 10-7-03)~~

~~Sec. 2-199. Receipt and expenditure of funds.~~

~~The commission may receive on behalf of the Town of Kernersville any donations and contributions from public or private agencies, foundations, organizations, individuals, the State of North Carolina, the federal government, and any other source in addition to any sums appropriated for its use by the board of aldermen.
(Ord. No. O-2003-31, 10-7-03)~~

Sec. 2-200. Reserved.

ARTICLE IX. TERMS OF OFFICE ON TownTown BOARDS AND COMMISSIONS*

Sec. 2-201. Reserved.

Editor's note: Ord. No. 01-19, adopted May 1, 2001, repealed section 2-201 in its entirety. Formerly said section pertained to restriction as to members serving consecutive terms. See the Code Comparative Table.

Sec. 2-202. Abandonment of terms of office(s).

Any appointed member of any townTown bBoard, eCommission, aAuthority, eCouncil, eCommittee or other public body, of which its members are appointed by the bBoard of aAldermen, who shall, without good and sufficient cause shown, fail to attend three (3) consecutive properly called meetings of the public body of which the appointee is a member shall be considered to have abandoned membership on such public body. Upon recommendation of such public body, the bBoard of aAldermen may by resolution declare the term of such appointee to be vacated. Upon passage of such resolution the bBoard of aAldermen may thereafter appoint a successor(s) to fill the unexpired term of such appointee. (Ord. No. 93-F, 5-3-93)

***Editor's note:** Ord. No. O-2003-30, adopted Nov. 7, 2003, renumbered Article VIII, Terms of Office on TownTown Boards and Commissions as Article IX, Terms of Office on TownTown Boards and Commissions.

Chapter 10

NUISANCES*

Art. I. In General, §§ 10-1--10-25

Art. II. Regulation, Removal and Disposition of Abandoned, Nuisance, and Junked Motor Vehicles, Junk, Salvage and Outdoor Storage Areas, §§ 10-26--10-80

Art. III. Noise, §§ 10-81--10-99

Art. IV. Nuisance gatherings, §§ 10-100--10-102

ARTICLE I. IN GENERAL

Sec. 10-1. Certain enumerated nuisances.

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

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

(2) Any growth or overgrowth of grass, weeds or other vegetation that is greater than one (1) foot on the average, or any accumulation of dead weeds, grass, brush or undergrowth. This section shall not apply to lots that are natural area lots unless the lot is found to violate section 10-1(a)(1) or 10-1(a)(3-6). Natural area lots are lots that have never been cleared in anticipation of development, lots that have been cleared at some point in the past but on which new plant growth has occurred and returned or is returning the lot to a natural state, or lots that have been landscaped or replanted to appear as natural, undeveloped areas. If a natural area lot is adjacent to a property occupied by a dwelling or other structure, and that dwelling or other structure is located within fifty (50) feet of the natural area lot, then the natural area lot shall comply with the requirements of this subsection to a depth of ten (10) feet from said adjacent property line; however, this requirement shall not apply to property that consists of a ravine, creek bank or other severe slope where maintenance would be unsafe and the chance of erosion would increase if the vegetation were decreased;

(3) Any concentration of combustible items including, but not limited to, mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes and rags;

(4) Any collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;

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

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

(7) Any and all grass or weeds growing in any sidewalk and any hedges bordering thereon not properly trimmed;

(8) Any and all trees or bushes either dead, diseased or not properly trimmed, or any object or growth within the sight distance, on private property adjacent to ~~town~~Town street rights-of-way that constitute a hazard to ~~town~~Town property or to the health or safety of motorists or pedestrians. "Sight distance" shall be defined as the area required to provide an unobstructed view across property primarily located at street intersections, driveways, and along sharp horizontal curves in the roadway.

(b) No owner, lessee or occupant, or any agent, servant, representative or employee of any such owner, lessee or occupant, having control of any lot or land in the ~~town~~Town, regardless of whether the lot is occupied or not, shall permit or maintain on such lot or land, or on or along the sidewalk, street or alley adjacent to the same between the property line and the curb or middle of the alley or for ten (10) feet outside the property line if there is no curb, any of the conditions described in this section. It shall be the joint and several duty of any owner, lessee and occupant of any lot or land to cut and/or remove or cause to be cut and/or removed all causes of such conditions as often as may be necessary to comply with the provisions of this chapter.

(c) *Chronic violator.* A chronic violator is a person who owns property whereupon, in the previous calendar year, the Town gave a notice of violation at least three (3) times under Section 10-1(a)(2). The Town may notify a chronic violator of Section 10-1(a)(2) that, if the violator's property is found to again be in violation of Section 10-1(a)(2), 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 in accordance with G.S. 160A-193. The initial annual notice shall be served by registered or certified mail. When service is made by registered or certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after the mailing. Pursuant to G.S. 160A-193(b), the expense of the action is also a lien on any other real property owned by the person in default within the ~~city~~Town limits or within one mile of the ~~city~~Town limits, except for the person's primary residence. A lien established pursuant to this subsection is inferior to all prior liens and shall be collected as a money judgment. G.S. 160A- 193(b) shall not apply if the person in default can show that the nuisance was created solely by the actions of another.

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(Code 1980, §§ 8-4001, 8-4002; Ord. No. O-2002-14, §§ 1, 2, 5-7-02)

Sec. 10-2. Notice to abate emergency abatement by ~~town~~Town.

If any person shall violate the provisions of this chapter the ~~town~~Town Mmanager or his designee shall give notice to the owner or to any person in possession of the subject property, directing that all unlawful conditions existing thereupon be abated within ten (10) days from the date of such notice; provided, that if, in the opinion of the ~~town~~Town Mmanager or his designee, the unlawful condition is such that it is of imminent danger or peril, to the Ppublic Servicesworks ~~d~~Ddepartment may, without notice, proceed to abate the same, and the cost thereof shall be charged against the property.

(Code 1980, § 8-4003; Ord. No. O-2002-14, § 3, 5-7-02)

Sec. 10-3. Failure to abate.

(a) Upon the failure of the owner or person in possession of any premises to abate any unlawful condition existing thereupon within the time prescribed, the Ppublic works-Services ~~d~~Ddirector or his designee shall cause the removal and abatement of such unlawful condition therefrom.

(b) Upon the completion of such removal and abatement, the ~~town~~Town Mmanager or his designee shall deliver to the fFinance ~~d~~Ddirector a statement showing the actual cost of the abatement of the unlawful condition plus any additional charges, in accordance with the eSchedule of Fees and charges-established annually by the bBoard of aAldermen. The fFinance ~~d~~Ddirector shall thereupon mail to the owner of the subject property a bill covering the cost, if with reasonable diligence the name and address of such owner can be ascertained. The amount of the bill shall become a lien upon the property and, if not paid within thirty (30) days, shall be collected in the manner provided for the collection of delinquent taxes.

(Code 1980, § 8-4004; Ord. No. 89-O, 8-1-89; Ord. No. O-2002-14, §§ 4, 5, 5-7-02)

Sec. 10-4. Service of notice.

(a) The owner of any property containing a nuisance shall be notified of any violation of this chapter by personal delivery of such notice or by first class mail, return receipt requested. If such owner refuses to accept notice of the violation, then such property shall be posted with the notice. If the name of the owner cannot be ascertained, then the notice shall be served on any person in possession of the property, or, if there is no person in possession of it, by posting the notice on the subject property. If any such property is owned by a corporation, the notice shall be served upon the registered agent or, in the absence thereof, notice shall be served by posting on the property.

(b) Any such notice may be served by any authorized representative of the ~~town~~Town mManager or by any pPolice eOfficer of the ~~town~~Town.

(Code 1980, § 8-4005; Ord. No. O-2002-14, § 6, 5-7-02)

Sec. 10-5. Defective notice.

Any defect in the method of giving the notice required by ~~s~~Section 10-4, or in the form thereof, or the giving of such notice to an improper person, shall not prevent the ~~town~~Town, in any case where the work of abating an unlawful condition upon any property is borne by the ~~town~~Town, from collecting the cost thereof from the owner, nor shall it affect the validity of the lien on the property for such cost.

(Code 1980, § 8-4006)

Secs. 10-6--10-25. Reserved.

ARTICLE II. REGULATION, REMOVAL AND DISPOSITION OF ABANDONED, NUISANCE, AND VEHICLES, JUNK, SALVAGE AND OUTDOOR STORAGE AREAS*

Sec. 10-26. Purpose and objectives.

The purposes and objectives for which this article is adopted include the following:

- (1) To protect the citizens and residents of the ~~town~~Town from inherently ~~dangerous~~dangerous abandoned, nuisance, and junked motor vehicles, junk, and outdoor storage areas and to promote the health, safety, and welfare of the citizens and residents of the ~~town~~Town.
- (2) To promote or enhance the quality of urban attractiveness and aesthetic appearance of the ~~town~~Town.
- (3) To preserve and protect the property values of land throughout the ~~town~~Town.
- (4) To preserve and protect the attractiveness to the ~~town~~Town's thoroughfares and commercial roads which present the primary, public visibility to visitors and passers-by of the ~~town~~Town.
- (5) To protect the economic interests of the citizens and residents of the ~~town~~Town.
- (6) To protect the citizens and residents of the ~~town~~Town from the proliferation of rodents and mosquitoes and the spread of diseases by vectors.

(Ord. No. 94-A, 2-1-94)

***Editor's note:** Ord. No. 94-A, adopted Feb. 1, 1994, repealed former art. II, §§ 10-26--10-40, 10-51--10-64, which pertained to similar subject matter, and added a new art. II, §§ 10-26--10-49.

State law references: Abandoned and derelict vehicles generally, G.S. § 20-137.6 et seq.; removal of junked or abandoned vehicle from private lot, § 20-219.2; removal from service station, § 20-219.3; post towing procedure, § 20-219.9 et seq.; ~~town~~Town's authority to remove, § 160A-303.

Sec. 10-27. Definitions.

For the purposes of this article, certain terms and words are hereinafter defined. Words used in the present tense shall include the future tense. Words used in the singular number shall include the plural number and the plural the singular. The word "shall" is mandatory and not directory.

Abandoned vehicle means:

- (1) Is left upon 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~~Town for longer than twenty-four (24) hours;
- (4) Is left on private property without the consent of the owner, occupant or lessee thereof, for longer than two (2) hours.

Authorizing official means the supervisory employee of the ~~p~~Police ~~D~~Department or the ~~zoning administrator~~Community Development Department, respectively, designated to authorize the removal of vehicles under the provisions of this article.

Automobile graveyard means a site where more than two (2) wrecked, scrapped, ruined, dismantled, or inoperable motor vehicles, trailers, or two (2) pieces of motorized equipment not being restored to operation are located on a land parcel as an accessory use in conjunction with any establishment; or a site where there are more than three (3) wrecked, scrapped, ruined, dismantled, or inoperable motor vehicles, trailers, or motorized equipment used in conjunction with such establishment, but located on another land parcel as a primary use of that parcel.

Automobile hobbyist means one who collects, repairs, and restores automobiles to which he holds title, for enjoyment and not for commercial purposes, as an incidental accessory use of the premises on which he resides, as established by the zoning ordinance of the ~~town~~Town.

Bufferyard means the portion of a yard where fencing and special plantings are required by this article to separate and completely screen affected areas from adjacent land uses.

Church means a building used for public worship and/or religious services.

Fencing, opaque means a wire fence constructed so that light does not pass through it.

Garage means an establishment which is maintained and operated for the primary purpose of making mechanical and/or body repairs to motor vehicles, agricultural machinery, trailers, or pieces of construction equipment.

Gate, opaque means a door, frame, or other device attached to an opening in a wire fence, which when opened, provides a means of ingress and egress of persons and things and which, when closed, forms a continuous physical and visual barrier as part of the wire fence to which it is attached, and through which light may not pass.

Housing unit means a house, an apartment, a group of homes, or a single room occupied or intended for occupancy as separate living quarters for one (1) or more humans.

Junk means secondhand, worn, or discarded articles, including, but not limited to: pallets, wood, building materials, household appliances, rope, rags, batteries, appliances, paper, trash, rubber, dismantled or wrecked automobiles or trailers, dismantled or wrecked motorized equipment, or parts thereof, iron, steel, scrapped copper, brass, other metals, and other similar scrap material.

Junked motor vehicle means a vehicle that does not display a current license plate lawfully upon that vehicle and that either: (1) is partially dismantled or wrecked; or (2) cannot be self-propelled or moved in the manner in which it originally was intended to move; or (3) is more than five (5) years old and appears to be worth less than ~~one five~~ hundred dollars (\$~~1500.00~~).

Comment [MSOffice1]: Police Dept wanted to include no inspection but that is not authorized by state law

Junk/salvage yard means any land parcel which is maintained, operated, or used for storing, keeping, buying, selling, or storing junk or salvage, regardless of the length of time that junk is stored or kept. The term "junkyard," or "salvage yard" shall not mean or include a sanitary landfill.

~~*Landscape ordinance* means the landscape ordinance of the town.~~

Motor vehicle or *vehicle* means all machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

Motor vehicles sales, service or rental means a business which is maintained and operated for the primary purpose of selling, servicing, or renting motor vehicles, agricultural machinery, trailers, or construction equipment.

Nuisance means the existence of any of the following conditions is declared to be dangerous and prejudicial to the public health or safety and constitutes a public nuisance:

- (1) The uncontrolled growth of noxious weeds or grass to a height in excess of ~~fifteen~~ twelve (152) inches, causing or threatening to cause a hazard detrimental to the public health or safety.
- (2) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes or other vermin or any kind which are or may be dangerous or prejudicial to the public health or safety.
- (3) Any accumulation of rubbish, trash or junk causing or threatening to cause a fire hazard, or the accumulation of stagnant water, or the inhabitation thereof of rats, mice, snakes or vermin of any kind which are or may be dangerous or prejudicial to the public

health or safety, or which for any other reason might be dangerous or prejudicial to the public health or safety.

(4) So offensive to the sight as to damage the community, neighborhood or area appearance.

Nuisance vehicle means a junked motor vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, or unlawful, including but not limited to 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 of weeds or other noxious vegetation over ~~fifteen-twelve~~ (152) 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 its falling or turning over; or
- (7) Any other vehicle specifically declared a health or safety hazard and a public nuisance by the ~~town~~ Town; or
- (8) So offensive to the sight as to damage the community, neighborhood, or area appearance.

Outdoor storage area means any area outside a building or structure used for the storage of junk, salvage, bulk materials, motor vehicles, parts, or equipment, or areas regularly used for repairs, excluding temporary construction and closed bay loading docks.

Public road means any street, road, or highway, including rights-of-way thereof, which is now or hereafter designated and maintained as a public road by the ~~town~~ Town, the state Department of ~~T~~ransportation, or the United States Department of Transportation.

Recyclers, metal means an establishment which is maintained and operated for the purpose of recycling motor vehicles, appliances, metal junk, or equipment using crushers, shredders, and other equipment to dismantle, separate, recover, or reuse metals or other materials. Said vehicles, appliances, or metal junk may be stored on the land parcel outside a building as an accessory use.

Repair shop means an establishment which is maintained and operated for the purpose of repairing, storing, keeping, buying, renting, or selling appliances or equipment other than motor vehicles and which stores or keeps any of the said appliances or vehicles on the land parcel outside a building as an accessory use.

Residential area means any area within the ~~town~~Town or the planning jurisdiction, with a zoning classification of AG, RS-40, RS-30, RS-20, RS-15, RS-12, RS-209, RS-75, RSQ, RM-5, RM-8, RM-12, RM-18, RMU, MF, MH and "R" ~~Special~~MU-S Districts; or fifteen (15) or more housing units within a geographical area comprised of a one-fourth (1/4) mile wide strip, which is contiguous and/or parallel to the external boundaries of the tract of real property on which an automobile graveyard, junkyard, or outdoor storage area is located.

Salvage means valuable or useful articles or parts extracted from machinery, appliances, vehicles, or other equipment.

Salvage yard means a place for disassembly of valuable or useful articles or parts extracted from machinery, appliances, vehicles, or equipment; the extraction of such articles or parts from machinery, vehicles, or other equipment; or retainage or storage of such articles or parts in an outdoor storage area.

School means any public or private institution for the teaching of children under eighteen (18) years of age which is recognized and approved by the state ~~b~~Board of ~~e~~Education.

Service station means any establishment which is maintained and operated for the primary purpose of making sales of fuels, lubricants, air, water and other automotive items, for the operation and routine maintenance of motor vehicles, and for making mechanical repairs, servicing and/or washing of motor vehicles. Motor vehicles, agricultural machinery, trailers, or places of construction equipment that are not capable of being driven under their own power and are not being restored to operable condition may be temporarily stored outside on the premises as an accessory use.

Trailer, storage means a structure, originally constructed with wheels in order to be transported over the highways, no longer transported, converted to use as a storage structure. If used for storage of any type, uncoupled truck trailers, travel trailers, manufactured dwellings, or similar structures shall be considered storage trailers. This definition shall not include construction trailers at an active construction site and uncoupled truck trailers placed at a church, school, government building, or business for the acceptance of goods donated to charity or used for recycling and towed away on a regular schedule.

~~*Type II buffer yard* means a high density screen designed to eliminate visual contact and create spatial separation between adjacent uses of land, as defined by the town landscape ordinance.~~

Vectors means organisms, including but not limited to rodents or mosquitoes, which carry pathogens from one (1) host to another.

Vegetation, evergreen means evergreen shrubs or trees which will attain a mature height of at least eight (8) feet. Vegetation with a mature height of greater than eight (8) feet may be required by the landscape officer of topographic, other conditions, or the characteristics of the materials being stored warrant.

Wire fence means a continuous translucent, perforated barrier extending from the surface of the ground to a uniform height of not less than six (6) feet from the ground at all points, constructed of at least 11.5 gauge wire, with two-inch mesh and a one and five-eighths-inch top rail, two-inch line posts set at a minimum ten (10) feet apart with two and one-half-inch

corner posts with caps on all corners, end and line posts. All line and corner posts are to be set thirty (30) inches deep in the ground in a hole eight (8) inches in diameter filled with cement. The fence shall have at least number seven (7) gauge tension wire attached to the mesh and posts with rings spaced approximately twenty-four (24) inches apart.

Yard means the area extending across the full width of the property and/or lot and lying between the lot line and the setback line as required by the zoning ordinance of the [townTown](#), or the yard as established by structures adjacent to the subject lot, whichever is the most restrictive. All yards bordering public streets shall be considered front yards for the purposes of this article.

(Ord. No. 94-A, 2-1-94)

Sec. 10-28. Administration, application procedures and general requirements.

The ~~pPolice~~ ~~dDepartment~~ and/or the ~~zoning administrator~~ [Community Development Department](#) of the [townTown](#) shall be responsible for the administration and enforcement of this article. The ~~pPolice~~ ~~Ddepartment~~ shall be responsible for administering the removal and disposition of vehicles determined to be an "abandoned, nuisance, or junked motor vehicle" located upon the public streets and highways within the [townTown](#), and located upon property owned by the [townTown](#). The ~~zZoning~~ ~~aAdministrator~~ shall be responsible for the regulation, removal and disposition of abandoned, nuisance or junked motor vehicles, junk, salvage and outdoor storage areas located on private property. The [townTown](#) may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned, nuisance, and junked motor vehicles in compliance with this article and applicable state laws. Nothing in this article shall be construed to limit the authority of the [townTown](#) in the enforcement of any other ordinance or state statute pertaining hereto.

(Ord. No. 94-A, 2-1-94)

Sec. 10-29. Prohibitions.

Except as hereinafter provided, it shall be unlawful after the effective date of this article within the corporate limits of the [townTown](#) for any person, firm or corporation or other legal entity, to begin operation of a junkyard, automobile graveyard, or outdoor storage area containing abandoned, nuisance or junked motor vehicles within three hundred (300) feet of the centerline of any public road, within one-half (1/2) mile of any school or church, within any residential area or within three hundred (300) feet of a housing unit. Notwithstanding any contrary language contained herein, the existence of a junkyard, automobile graveyard, or outdoor storage area of a service ~~state~~ ~~station~~, garage, other business, or repair shop so located upon the effective date of this article, and classified as a nonconforming use by the [townTown](#) zoning ordinance shall be a nonconforming use pursuant to the provisions of this article. In the event the use of such a junkyard, automobile graveyard, or outdoor storage area of a service station, garage, other business, or repair shop is discontinued for a continuous period of six (6) months, the use of the junkyard, automobile graveyard, or outdoor storage area of a service station, garage, other business, or repair shop shall not be resumed and any resumption thereof after the said six-month period shall be a violation of this article.

(Ord. No. 94-A, 2-1-94)

Sec. 10-30. Abandoned vehicle unlawful; removal authorized.

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. Upon investigation, the ~~property authorizing~~ authorizing officials of the townTown may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

(Ord. No. 94-A, 2-1-94)

Sec. 10-31. Nuisance vehicle unlawful; removal authorized.

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 without appropriate screening after it has been declared a nuisance vehicle. Upon investigation, the townTown zZoning aAdmistrator 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 or screened as provided herein this article.

(Ord. No. 94-A, 2-1-94)

Sec. 10-32. Junked motor vehicle regulated; removal authorized.

It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property without appropriate screening after it has been declared a junked motor vehicle. Upon investigation, the townTown zZoning aAdmistrator may determine and declare that a vehicle is a junked motor vehicle as defined herein, and order the vehicle removed or screened as provided herein this article.

(Ord. No. 94-A, 2-1-94)

Sec. 10-33. Removal of abandoned, nuisance or junked motor vehicles; pre-towing notice requirement.

Except as set forth in ~~s~~Section 10-35 of this article, an abandoned, nuisance, or junked motor vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. The person who mails the notice(s) shall retain a written record to show the name(s) and address(es) to which mailed and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the townTown on a specified date (no sooner than seven (7) days after the notice is affixed) unless the vehicle is moved by the owner or legal possessor prior to that time.

If the registered owner or person entitled to possession of abandoned vehicles on private property, nuisance vehicles, and junked motor vehicles to which notice is required to be given, does not remove the vehicle, but chooses to appeal the determination that the vehicle is abandoned, a nuisance vehicle, or a junked motor vehicle, such appeal shall be made to the **bB**oard of **aA**ldermen in writing, heard at the next regularly scheduled meeting of the **bB**oard of **aA**ldermen, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

(Ord. No. 94-A, 2-1-94)

Sec. 10-34. Exception to prior notice requirement.

The requirement that notice be given prior to the removal of an abandoned, nuisance or junked motor vehicle may 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, as determined by the authorizing official. Such findings shall, in all cases, be entered by the authorizing official in the appropriate daily records of the **townTown**. Circumstances justifying the removal of any vehicle without prior notice include, but are not limited to:

(1) *Vehicles abandoned on the streets.* For vehicles left on the public streets and highways, the **bB**oard of **aA**ldermen hereby determines that immediately removal of such vehicles **by** 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 restriction imposed under Code sections.

(2) *Other abandoned or nuisance vehicles.* With respect to abandoned or nuisance vehicles left on **townTown**-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, but not 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. 94-A, 2-1-94)

Sec. 10-35. Removal of abandoned, nuisance or junked motor vehicle; post-towing notice requirements.

Any vehicle which has been determined by the ~~property authorizing~~authorizing official to be an abandoned, nuisance, or junked motor vehicle which has been ordered removed may, as directed by the ~~town~~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~~Town. Whenever such a vehicle is removed, the ~~property authorizing~~authorizing ~~town~~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~~ing~~ to redeem the vehicle; and
- (5) The procedure the owner must follow to request a probable cause hearing on the removal.

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

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~~er~~ within seventy-two (72) hours from the removal of the vehicle.

Whenever an abandoned, nuisance, or junked motor vehicle is removed, and such vehicle has no valid registration or registration plates, the authorizing ~~town~~Town official shall make reasonable efforts, including verification of the vehicle identification number, to determine the last known registered owner of the vehicle and to notify ~~him~~said owner of the information set forth in subsections (1) through (5) above.

(Ord. No. 94-A, 2-1-94)

Sec. 10-36. Right to probable cause hearing before sale or final disposition of the 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 ~~m~~Magistrate designated by the ~~e~~Chief ~~D~~istrict ~~e~~Court ~~j~~udge to receive such hearing requests. The ~~m~~Magistrate will set the hearing within seventy-two (72) hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. § 20-219.11. Any aggrieved party may appeal the ~~m~~Magistrate's decision to the ~~d~~istrict ~~e~~Court.

(Ord. No. 94-A, 2-1-94)

Sec. 10-37. Redemption of the vehicle during proceedings.

At any stage of 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 a vehicle, the owner or persons entitled to the possession of the vehicle shall not allow nor engage in, further violations of this article.

(Ord. No. 94-A, 2-1-94)

Sec. 10-38. Sale and disposition of unclaimed vehicles.

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession, will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the [townTown](#) and in accordance with G.S. Ch. 44A, Article I.

(Ord. No. 94-A, 2-1-94)

Sec. 10-39. Conditions on removal of vehicles from private property.

As a general policy, the [townTown](#) 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 [townTown](#) from private property without written request of 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. Authorized officials shall have the right, upon presentation of proper credentials, to enter upon any premises within the [townTown](#), at any reasonable hour, to determine if any vehicles are in violation of this article. The [townTown](#) may require any person requesting the removal of an abandoned, nuisance or junked motor vehicle from private property to indemnify the [townTown](#) against any loss, expense or liability incurred because of the removal, storage or sale thereof.

(Ord. No. 94-A, 2-1-94)

Sec. 10-40. Protection against criminal or civil liability.

No person shall be held liable or to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle, for disposing of such vehicle as provided in this article.

(Ord. No. 94-A, 2-1-94)

Sec. 10-41. Unlawful removal of an impounded vehicle.

It shall be unlawful for any person to remove or attempt to remove, from any storage facility designated by the [townTown](#), any vehicle which has been impounded pursuant to the

provisions of this Code unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

(Ord. No. 94-A, 2-1-94)

Sec. 10-42. Junk, salvage and outdoor storage areas regulated; abatement authorized.

It shall be unlawful to have junk, salvage and outdoor storage areas, as defined herein, on the premises of public or private property without appropriate screening. Upon investigation, the ~~town~~Town ~~z~~Zoning Administrator may order the abatement of junk, salvage or outdoor storage areas as defined in this article after a finding in writing that the aesthetic benefits of screening outweigh the burdens imposed on the private property owner. Such findings 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) Promotion of tourism and other economic development opportunities;
- (3) Indirect protection of public health and safety;
- (4) Preservation of the character and integrity of the community; and
- (5) Promotion of the comfort, happiness and emotional stability of the area residents.

(Ord. No. 94-A, 2-1-94)

Sec. 10-43. Auto hobbyists; residential areas.

Auto hobbyists are permitted in residential districts as an incidental accessory use. Storage of two (2) unlicensed vehicles and/or bulk outdoor storage areas may be located in the side or rear yards only, and shall be enclosed by vegetation, fencing, or principal and/or accessory buildings which precludes the view of such vehicles or storage from any adjacent property or street right-of-way. Enclosed for purposes of this section shall mean that the vehicles or storage are surrounded on all four (4) sides by such vegetation, fencing, principal and/or accessory buildings to a minimum height of six (6) feet. The front setback shall be as established for the principal use by the ~~town~~Town ~~zoning~~Unified Development Ordinance for the zoning district in which the subject property is located; or, shall be that distance defined by the existing building setbacks as measured at the subject property, whichever is the most restrictive. Storage of unlicensed motor vehicles in residential zoning districts by anyone besides an auto hobbyist as defined herein is prohibited.

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(Ord. No. 94-A, 2-1-94)

Sec. 10-44. Business and industrial zoning districts.

Storage in business and industrial zoning districts shall be permitted in the front yard, provided such storage areas meet all other requirements of this article, the ~~zoning~~Unified

Development Ordinance, and all other applicable ordinances of the Town. The minimum setback for an outdoor storage area is ten (10) feet from the property line, street right-of-way line, or the proposed right-of-way line recommended by the Town Thoroughfare Plan, whichever is the most restrictive.

Where an outdoor storage area abuts residentially zoned property, a fifteen (15) foot setback shall be maintained for all outdoor storage, and a ~~type II~~ bufferyard installed where the outdoor storage yard abuts residentially zoned property boundaries as required by the Town Landscape Ordinance.

(Ord. No. 94-A, 2-1-94)

Sec. 10-45. Types of fencing and vegetative screening required.

Each property affected by this article shall be entirely surrounded by a fence and vegetative screening as provided herein. The fence shall be made of wire and shall not have more than four (4) gates for the purposes of ingress and egress. The gates shall be closed and securely locked at all times except during business hours. All gates shall have lattice work threaded in/or covering the gate which shall cause the gate to be opaque.

The vegetative screen shall be in conformity with ~~the town landscapethis ordinancearticle~~, and shall be planted on the outside of the wire fence contiguous to, and not more than five (5) feet from the fence. Locations with fencing existing at the date of adoption of this article, which conforms to the requirements of this article may be permitted to install the vegetative screen inside the wire fence with the approval of the ~~landscape officer~~Zoning Administrator. The vegetation shall form a high density screen to eliminate visual contact of the outdoor storage area from adjacent property and street right-of-way. The vegetation shall be of a type approved by the landscape officer that will, with proper maintenance, reach a minimum height of eight (8) feet within four (4) years from the date planted. The vegetation shall be composed of evergreen plants, four (4) feet tall upon installation, spaced not more than five (5) feet on center, so that a continuous, unbroken hedgerow (without gaps or open spaces) will exist to a height of at least eight (8) feet along the length of the fence surrounding the areas affected by this article. The fence and vegetation shall be set back a minimum of ten (10) feet from any street right-of-way.

An existing outdoor storage area which is completely paved, enclosed by a wire fence, opaque or capable of being rendered opaque, meeting all requirements of this article, and in place at the effective date of this article may remain without vegetative screening, provided that such fence is a minimum of eight (8) feet in height, completely blocks the view of the contents of the outdoor storage area. If the contents of such storage area are not completely visually screened, the owner may erect either a fence of sufficient height to accomplish such complete screening or remove sufficient pavement to allow installation and subsequent growth of vegetative screening.

The type of vegetation shall be selected from the following table of acceptable materials (installation height--four (4) feet):

Common name	Botanical name
Arborvitae	<u>Thuja occidentalis</u>
Eastern Red Cedar	<u>Juniperus virginiana</u>
Deodar cedar	<u>Cedrus deodar</u>
Japanese cryptomeria	<u>Cryptomeria japonica</u>
Leyland Cypress	<u>Cupressocypariss leylandii</u>
American Holly	<u>Ilex opaca</u>
Burford Holly	<u>Ilex cornuta "Burfordii"</u>
Nellie Stevens Holly	<u>Ilex cornuta "Nellie Stevens"</u>
Hetz Juniper	<u>Juniperus hetzi</u>
Ligustrum lucidum	<u>Ligustrum lucidum</u>
Wax Myrtle	<u>Myrica cerifera</u>
Russian Olive	<u>Eleagnus pungens</u>
Japanese Black Pine	<u>Pinus thunbergii</u>

White pine *Pinus strobus* Carolina cherry-laurel *Prunus carolineana* Leatherleaf viburnum *Viburnum rhytidophyllum*

The vegetative species selected shall be of sufficient height when mature to completely screen all materials stored in any outdoor storage area. The ~~Zoning Administrator~~landscape officer shall direct that appropriate tall growing species be used where storage trailers or stored materials exceed a height of eight (8) feet.

Existing vegetation may be utilized for screening, as established by the ~~Landscap~~e Ordinance, if such vegetation provides a dense, year-round hedgerow forming a high density screen capable of eliminating visual contact of the outdoor storage area from adjacent property and street rights-of-way, and is approved by the ~~Zoning Administrator~~landscape officer.

The landowner is responsible for maintaining all required plant materials in good health. Good horticultural techniques, such as pruning, mulching, watering, and proper fertilization, shall be implemented so the vegetation will reach a height of eight (8) feet within four (4) years of the date planted and will have maximum density and foliage. Dead, diseased, or damaged vegetation shall be replaced at the next appropriate planting time. Dead, dying, damaged, or missing plants shall be replaced with new planting conforming to all standards of this article. Plant replacement shall take place within thirty (30) days of written notification by the landscape officer. Planting may be delayed, upon written authorization by the landscape officer, until the next suitable planting season. The landowner shall maintain all fences, gates, and walls in good repair. Damaged or missing gates or fencing shall take place within thirty (30) days of written notification by the ~~landscape officer or zoning enforcement officer~~Zoning Administrator.

(Ord. No. 94-A, 2-1-94)

Sec. 10-46. Nonconforming use.

All existing automobile graveyards, junkyards, and outdoor storage areas of service stations, garages, metal recyclers, repair shops, rental shops, other businesses, auto hobbyists, or individuals utilizing outdoor storage at the effective date of this article shall be granted a grace period of six (6) months from the effective date of this article to conform to the article provisions. Thereafter, if the subject is not in conformity with this article, the same shall be in violation of this article and shall be removed and/or subject to the penalties for violation as provided herein.

(Ord. No. 94-A, 2-1-94)

Sec. 10-47. Exceptions.

Any person, firm or corporation shall be allowed to possess and be placed upon its property such number of abandoned or junk motor vehicles as may be and are placed within an enclosed garage or other structure which is in conformity with all zoning ordinances of the ~~town~~Town.

Motor vehicles, agricultural machinery, trailers, construction equipment or appliances may be temporarily stored outside on the premises as an accessory use. However, in no event shall the vehicle(s) or equipment remain on the property for a period longer than one (1) month without appropriate screening as provided in this article.

Existing metal recycling operations, using machines which shred, sort, and stockpile metals shall be permitted by this article, provided that all such operations are conducted at least two hundred (200) feet from frontage street(s) and that screening is installed as provided herein. No limitations are established for the storage of metals, provided that such operations conform to all other conditions established by this article.

(Ord. No. 94-A, 2-1-94)

Sec. 10-48. Inspection.

Authorized officials have a right, upon presentation of proper credentials, to enter on any premises within their jurisdiction at any reasonable hour to determine if any areas are in violation of this article.

(Ord. No. 94-A, 2-1-94)

Sec. 10-49. Remedies and penalties for violation.

If any real property is used in violation of this article, the ~~town~~Town or any other appropriate authority of adjacent or other property owner who would be damaged by such violation, in addition to other remedies, may institute any appropriate legal action, including without limitation, the bringing of action to obtain any appropriate equitable remedy, the obtaining of injunctions, orders of abatement and other legal process commanding the defendant(s) to correct the unlawful condition upon, or cease the unlawful use of, the property. Any court hearing and action to enforce the provisions of this article may, as part of its judgment, direct that vehicles, junk, salvage or outdoor storage areas be screened, closed or removed; that grass and weeds be cut; that fences, gates, and bufferyards be installed, repaired, or maintained; that improvements or repairs be made, or that any other action be taken that is necessary to bring the property into compliance with this article. If any defendant fails to or refuses to comply with any injunction, order of abatement, or other court order within the time allowed by the court, the defendant he may be cited for contempt and the ~~town~~Town may execute the order of abatement. If the ~~town~~Town executes the order of abatement, it has a lien on the property in the nature of a mechanic's and materialman's lien for the costs of executing the order. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings, including without limitation, attorneys fees, and by posting a bond for compliance with the order. The bond shall be given with sureties approved by the ~~Forsyth County~~Forsyth County Clerk of Superior Court in an amount approved by the judge before whom the matter was heard and shall be conditioned upon the defendant's full compliance with the terms of the order of abatement within the time fixed by the judge. Cancellation of an order of abatement does not suspend or cancel an induction issued in conjunction with the order.

In addition to all other remedies provided for herein, any violation of this article subjects the offender to a civil penalty in the amount of one hundred dollars (\$100.00) per day that any person, firm, corporation, or other entity remains in violation of this article. The civil penalty shall be in the nature of a debt and may be recovered by the ~~town~~Town in a civil action if the offender does not pay the penalty within sixty (60) days after he has been cited by written notice from the ~~town~~Town for violation of this article.

Pursuant to G.S. §§ 160A-175(b) and 14-4, violation of any provision of this article shall not constitute a misdemeanor or infraction.

(Ord. No. 94-A, 2-1-94; Ord. No. O-2006-37, § 4, 11-7-06)

Sec. 10-50. Effective date of article.

This article shall be effective upon the date of its adoption.

(Ord. No. 94-A, 2-1-94)

Secs. 10-51--10-80. Reserved.

ARTICLE III. NOISE*

***Cross references:** Noisy animals and fowl, § 3-10; train whistles, § 14-6.

State law references: Authority to regulate noise, G.S. § 160A-184.

Sec. 10-81. Prohibited.

No person shall make, continue, or cause to be made or continued any excessive, unnecessarily or unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the [city/Town](#).
(Code 1980, § 8-5013)

Sec. 10-82. Exemptions.

The following uses and activities shall be exempt from noise level regulations:

- (1) Noises of safety signals, warning devices and emergency pressure relief valves.
- (2) Noises resulting from any authorized emergency vehicle, when responding to an emergency call or acting in the time of any emergency.

(Code 1980, § 8-5013)

Sec. 10-83. Standards.

The standards which shall be considered in determining whether a violation of this article exists shall include, but shall not be limited to, the following:

- (1) The volume of the noise.
- (2) The intensity of the noise.
- (3) Whether the nature of the noise is usual or unusual.

- (4) Whether the origin of the noise is natural or unnatural.
- (5) The volume and intensity of the background noise, if any.
- 6) The proximity of the noise to residential sleeping facilities.
- (7) The nature and zoning of the area from which the noise emanates.
- (8) The density of inhabitation of the area from which the noise emanates.
- (9) The time of the day or night the noise occurs.
- (10) The duration of the noise.
- (11) Whether the noise is recurrent, intermittent or constant.
- (12) Whether the noise is produced by a commercial or noncommercial activity.
- (13) Whether the noise is of impulsive character (hammering, etc.).
- (14) Whether the noise is of periodic character (hum, screech, etc.).

(Code 1980, § 8-5013)

Sec. 10-84. Enumerated.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this Code, but such enumeration shall not be deemed to be exclusive:

(1) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public place in the Township, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

(2) *Loudspeakers, amplifiers for advertising.* The using, operating or permitting to be played, used or operated of any radio or television set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is on the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

(3) *Yelling, shouting, etc.* Yelling, shouting, hooting clapping or singing on the public streets, particularly between the hours of 10:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or any other type or residence, or of any persons inside any building in the vicinity.

(4) *Exhaust.* The discharge into the open air of the exhaust of any internal combustion engine, motor boat or any other motor vehicle except through the muffler or other device which will effectively prevent loud or explosive noises therefrom.

(5) *Vehicles out-of-repair, etc.* The use of any automobile, motorcycle, motorscooter, go cart, or any other vehicle so out of repair, or so loaded or in such a manner as to create loud and unnecessary grating, grinding, rattling, or other noise, including excessive noise coming through the exhaust thereof.

(6) *Sound reproduction devices.* No person shall cause, allow, or permit the operating or playing of any radio, tape player, or similar device that reproduces or amplifies sound in such a manner as to create noise at fifty (50) feet from the device or vehicle containing the device, when the device or vehicle is being operated in or on a public right-of-way or public space.

(Code 1980, § 8-5013(b); Ord. No. 90-J, 11-6-90)

Secs. 10-85--10-99. Reserved.

ARTICLE IV. NUISANCE GATHERINGS

Sec. 10-100. Nuisance gathering prohibited.

A nuisance gathering is defined herein as a social gathering, sporting event, game or party which is conducted on premises within the ~~town~~Town and which, by reason of the conduct of the persons in attendance, results in any one or more of the following conditions or events occurring at the site of the said party, sporting event, game or social gathering, or on neighboring public or private property: disorderly conduct; outdoor urination or defecation in a public place; unlawful sale, furnishing, dispensing or consumption of beer or intoxicating liquor; sale or furnishing of beer or intoxicating liquor to an underage person; possession or consumption of beer or intoxicating liquor by an underage person; illegal use of a controlled substance; public indecency; unlawful deposit of litter or refuse; the damage or destruction of property without the consent of the property owner; unlawful pedestrian or vehicular traffic; standing or parking of vehicles that obstructs the free flow of traffic on the public streets and sidewalks or that impedes the ability to render emergency services; excessive, unnecessary or unusual loud noise which disturbs the repose of the neighborhood; public disturbances, brawls, fights, quarrels, or any other activity resulting in conditions that annoy, injure or endanger the safety, health, comfort or repose of the neighboring residents, or results in any obscene conduct, or results in any immoral exhibition or indecent exposure by persons at the gathering and is hereby declared to be an unlawful public nuisance.

(Ord. No. O-2006-21, § 1, 6-6-06)

Sec. 10-101. Duty to control premises.

Any person who is an owner, occupant, tenant, or otherwise has rightful possession or possessory control, individually or jointly with others, of any premises, who either sponsors, conducts, hosts, invites, or permits a social gathering or party on said premises which is or

| becomes a nuisance gathering, as defined in [§](#)Section 10-100 is deemed to be in violation of this section.

(Ord. No. O-2006-21, § 1, 6-6-06)

Sec. 10-102. Attendance also a violation.

Any person attending a nuisance gathering is also in violation of this section.

(Ord. No. O-2006-21, § 1, 6-6-06)