

## **CHAPTER 5**

### **GENERAL OFFENSES**

Section 5-1	Noise Generally
Section 5-2	Particular Noise
Section 5-3	Discharge of Firearms and Air Rifles
Section 5-4	Curfew for Minors
Section 5-5	Reserved
Section 5-6	Regulating Peddlers, Solicitors and Vendors
Section 5-7	Posting of Signs on Municipal Property Prohibiting the Carrying of Concealed Weapons.
Section 5-8	Smoking and Use of Tobacco Products in Municipal Buildings and Vehicles
Section 5-9	Consumption of Alcoholic Beverages
Sections 5-10 through 5-19	Reserved
Section 5-20	Penalties and Remedies

#### **Section 5-1    Noise Generally.**

No person may authorize or cause to be emitted from any property or source under his control any unreasonably loud noise or any noise that is unreasonably disturbing to persons who (i) if the noise emanates from a source located on private property, are located on other property, or (ii) if the noise emanates from a street or other public property, is located on private property or the street or other public property. Violation of this section shall be punishable as a misdemeanor as provided by N.C.G.S. § 14-4.

#### **Section 5-2    Particular Noise.**

A. The following are declared to be illustrations of noise prohibited under the foregoing section, and are hereby declared to be unlawful, but this list shall not be exhaustive:

- 1) The blowing of a horn on any motor vehicle (as defined in Section 6-1 of this code) except when the horn is used as a warning device.
- 2) The operation of any motor vehicle (as defined in Section 6-1 of this code) without a muffler or with a muffler that is so defective or so designed that the vehicle emits an unusually and unreasonably loud noise.
- 3) The operation of a motor vehicle (as defined in Section 6-1 of this code) so as to create unusually and unreasonably loud noise through the screeching of tires or racing of engines.
- 4) The playing of any radio, television, tape recorder, phonograph or similar electronic devise or any musical instrument so as to disturb substantially the comfort, quiet or

repose of persons in any place of residence or so as to interfere substantially with the operations of any church, school, theatre, library, or other similar place of assembly.

B. The following are declared to be illustrations of noise restrictions under the foregoing section, and are hereby declared to be unlawful when conducted outside of listed time constraints, **but** this list shall not be exhaustive:

- 1) Construction Noises: The creation of any loud and excessive noise resulting from erection, excavation, demolition, alteration, or repair of any structure or building located on a site that is within 500 feet of an occupied residence other than between the hours of 7 a.m. and 8 p.m., Monday through Saturday, and between the hours of 9 a.m. and 8 p.m. on Sunday, unless such work is entirely within a completely enclosed area so as not to be audible beyond the property line of the lot upon which the work is conducted.
- 2) Powered Equipment Intended for Repetitive use in Residential Areas: Powered equipment, such as lawn mowers, riding tractors, backpack blower, lawn edger, or other mechanical or electrical device, or any hand tool which creates a loud, raucous or impulsive sound that are necessary for the maintenance of property may operate between the hours of 7 a.m. and 8 p.m., Monday through Saturday, and between the hours of 9 a.m. and 8 p.m. on Sunday. The ending time will be extended to 9 p.m. seven days a week during the summer months of June, July and August.

C. Violation of this section shall be punishable as a misdemeanor as provided by N.C.G.S. § 14-4.

#### Section 5-3 Discharge of Firearms and Air Rifles.

- a) Subject to subsection (b), no person may discharge within the town any firearms, air rifles, air pistol, B-B gun, pellet gun, pump gun or similar weapon.
- b) Subsection (a) shall not apply to private citizens acting in justifiable self defense or pursuant to the lawful directions of a police officer nor to police officers acting in a lawful performance of their duties.
- c) Violation of this section shall be punishable as a misdemeanor as provided by N.C.G.S. § 14-4.

#### Section 5-4 Curfew of Minors.

No minor under the age of sixteen may loiter, wander, stroll, loaf or play upon the streets, roads, alleys, or other public places within the town, or in any vehicle placed or parked thereon, between the hours of 12:00 midnight and sunrise of the following day, unless accompanied by the parent, guardian, or other adult person having the care, custody, or control of the minor. Violation of this section shall be punishable as a misdemeanor as provided by N.C.G.S. § 14-4.

Section 5-5 Reserved

Section 5-6 Peddlers, Solicitors and Vendors.

a) Definitions. For the purpose of this ordinance the following terms shall have the meanings respectively ascribed:

(1) Peddler – Any person who transports goods from place to place and sells or offers for sale such goods, or who, without traveling from place to place, sells or offers for sale any goods from any vehicle or device, provided, that any person who separates the acts of sale and delivery for the purpose of evading the provisions of this ordinance shall be deemed a peddler.

(2) Solicitor – Any person who travels from place to place taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future whether or not samples are displayed or money is collected in advance, and any person who uses or occupies any building or premises for the sole purpose of taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future, whether or not samples are displayed or money is collected in advanced.

(3) Transient Vendor – Any person who engages in a temporary business of selling and delivering goods and who, for this purpose, uses or occupies any building or premises; provided, that no person shall be relieved from complying with the provisions of this section merely by conducting a transient business in association with any permanently established merchant.

b) In order to protect the public health, safety and welfare, it shall be unlawful for a peddler, solicitor, or transient vendor, as defined by Section 5-6 subsection (a) of this ordinance, to engage in such business within the Town of McAdenville without first obtaining a permit therefore in compliance with the provisions of this ordinance.

This ordinance does not apply to any McAdenville community oriented, non-profit organization that may sell or offer to sell goods in the Town of McAdenville.

c) Each and every person doing business in the Town of McAdenville as a peddler, solicitor or transient vendor shall file with the town clerk, on a form to be provided for this purpose an application for a permit, which shall contain the following information:

- 1) Name and address of individual filing application;
- 2) Name and address of principal or employer if applicant is an agent or employee;
- 3) Credentials showing relationship of agent or employee;

- 4) Description of applicant including height, weight, sex, age, race and distinguishing characteristics, if any;
- 5) The goods to be sold or offered for sale, or the type of services to be rendered;
- 6) The period of time during which the business will be carried on in the town;
- 7) Description of automobile or other vehicle to be used in the business, including the make, model, body style, color and license number;
- 8) Whether or not the applicant, his principal or employer, or any other person having management or supervision or the applicant's business has been convicted of a crime, the nature of the offense, and the punishment assessed therefore; and
- 9) Such other information as to the identity of the applicant or the nature of his business as the town clerk may deem proper to protect the public health, safety and welfare.

d) Upon receipt of an application, the town clerk shall cause to be made such investigation of the applicant's moral character and business responsibility as is necessary to protect the public health, safety and welfare. If as a result of this investigation, the character and responsibility of the applicant appear to be unsatisfactory, the application shall be denied. If, as a result of this investigation, the character and responsibility of the applicant appear to be satisfactory, the town clerk shall issue a permit providing that the applicant complies with subsection (e) and (g) of this ordinance.

e) Before any permit is issued under this ordinance, the applicant must file with the town clerk a bond, executed in favor of the town by a corporate surety licensed under the laws of North Carolina to execute such bonds, in the amount of \$1,000.00, conditioned that the applicant will for a period of twelve (12) months refund all money paid to the applicant by a purchaser of goods or services if the goods or services are not delivered or provided in accordance with the terms of the contract of purchase, whether such contract be oral or written; and refund all money paid to the applicant by purchaser if the goods or services purchased are not of the kind and quality promised by the applicant in the contract of purchase, whether such contract be oral or written.

f) The town clerk shall, in addition to the permit issued under subsection (e) issue to each successful applicant a badge which shall be substantially in the following form:

Town of McAdenville, N. C. No. \_\_\_\_\_

**SOLICITOR'S BADGE**

\_\_\_\_\_ (name) has registered with the town clerk as required by ordinance.

\_\_\_\_\_  
(date)

\_\_\_\_\_  
Town Clerk

During the time the applicant is engaged in the business of a peddler, solicitor, or transient vendor, this badge shall be worn on the front of his outer garment in such manner as to be conspicuous.

g) The town clerk shall charge and collect a fee of twenty-five (\$25.00) dollars in order to recover the administrative costs of processing each application for a permit.

h) Violation of this ordinance shall not be punishable as a misdemeanor.

Section 5-7 Posting of Signs on Municipal Property Prohibiting the Carrying of Concealed Weapons.

Chapter 398 of the 1995 Session Laws made changes to the law governing concealed weapons by establishing a system that will allow private citizens to obtain permits to carry concealed handguns. This change will significantly increase the number of individuals who may legally carry concealed handguns. It is necessary to restrict the carrying of concealed handguns on certain town property in order to protect the health and safety of municipal employees and the community at large. N.C.G.S. 14-415.23 authorizes municipalities to adopt ordinances to permit the posting of a prohibition against carrying a concealed handgun, in accordance with N.C.G.S. 14-415.11(c), on local government buildings, their appurtenant premises and parks; and it is the intent of this ordinance to direct the posting of municipal property such that, pursuant to N.C.G.S. 14-415.11(c), the carrying of concealed handguns on the posted premises will constitute a violation of N.C.G.S. Chapter 14, Article 54B. Therefore, be it ordained by the Town of Council of the Town of McAdenville, North Carolina, that:

1) Posting of Signs Required.

The Town Clerk is hereby authorized and instructed to post conspicuous signage at appropriate locations on or within the following municipal property, indicating that carrying a concealed handgun is prohibited therein:

- a) Town Hall at 129 Main Street, McAdenville
- b) Municipal Building at Wesleyan Drive, McAdenville

2) Location of Signs.

Signs on buildings shall be visibly posted on the exterior or each entrance by which the general public can access the building. The Clerk shall exercise discretion in determining the number and appropriate location of signs to be placed on or within appurtenant premises.

3) Severability; Conflicts of Laws.

If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to that end the provisions of this ordinance are declared to be severable. All ordinances or parts or ordinances in conflict with this ordinance are hereby repealed.

5) Penalty

A violation of any of the provisions of this chapter by persons carrying concealed handguns upon municipal property shall constitute a misdemeanor, punishable as provided by N.C.G.S. §§ 14-54B and/or 14-4.

4) Effective Date.

This ordinance shall be effective on and after December 1, 1995 and adopted this 14<sup>th</sup> day of November, 1995.

Section 5-8 Smoking and Use of Tobacco Products in Municipal Buildings and Vehicles.

1) Definitions.

- a) "Smoking" shall mean the inhaling, exhaling, burning or carrying of a lighted pipe, cigar, cigarette or other combustible tobacco product.
- b) "Using Tobacco Products" shall mean using any form of tobacco that is not combustible, including chewing tobacco, dipping snuff, and inhaling snuff.

2) Smoking and Using Tobacco Products Prohibited in Municipal Buildings.

It shall be unlawful for any person to smoke or use tobacco products in any building or facility or portion of a building or facility now or hereafter owned, leased, operated, occupied, managed or controlled by the Town of McAdenville.

3) Smoking and Use of Tobacco Prohibited in Municipal Vehicles.

It shall be unlawful for any person to smoke or use tobacco products in any vehicle now or hereafter owned or leased by the Town of McAdenville.

- 4) **Penalty.**  
Violation of this ordinance shall subject the offender to a civil penalty in the amount of \$50.00 to be recovered by the Town. Violators shall be issued a written citation which must be paid to the Town of McAdenville within 48 hours. Violation of this ordinance shall not constitute a misdemeanor or infraction punishable under N.C.G.S. 14-4.
- 5) **Conflict of Laws.**  
If any portion of this ordinance or the enforcement thereof is found to be preempted by state or federal law, such preemption shall not operate to invalidate the rest of the ordinance and the same shall remain in full force and effect. All ordinances or parts of the ordinance in conflict with this ordinance are hereby repealed.
- 6) **Effective Date.**  
This ordinance shall be effective October 1, 1993.

Section 5-9 Consumption of Alcoholic Beverages.

- 1) **Drinking in Public Places.**  
No person shall consume, serve, or drink wine, beer, whiskey, or other alcoholic beverages of any kind in the public streets, boulevards, alleys, parks, sidewalks, or public buildings within the Town of McAdenville.
2. **Penalty.**  
Violation of this ordinance shall be a misdemeanor punishable pursuant to N.C.G.S. § 14-4 upon conviction by cost of Court and a fine not exceeding fifty dollars (\$50.00) or by imprisonment not exceeding thirty (30) days.
- 3) **Effective Date.**  
This ordinance shall be in full force and effect from and after its adoption.

Sections 5-10 through 5-19                    Reserved.

Section 5-20 Penalties and Remedies.

- a) In addition to any and all specific penalties provided in the code sections above, violation of any of the provisions of this chapter shall also subject the offender to a civil penalty of twenty-five (\$25.00) dollars. If a person fails to pay this penalty within ten days after being cited for a violation, the town may seek to recover the penalty by filing a civil action in the nature of debt.
- b) The town may seek to enforce the provisions of this chapter through any appropriate equitable action.

c) Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.

d) The town may seek to enforce this chapter by using any one or a combination of the remedies provided in the specific code section at issue and/or the remedies set forth in this section.

## Chapter 6

### MOTOR VEHICLES AND TRAFFIC

#### Article I – Definitions and Interpretations

Section 6-1 Definitions and Rules of Construction

#### Article II – Traffic Control and Traffic Control Devices

Section 6-2 Stoplights Required at Certain Intersections and Locations  
Section 6-3 Flashing Red or Yellow Lights Required at Certain Intersections and Location  
Section 6-4 Stop Signs Required at Certain Intersections  
Section 6-5 One-Way Streets  
Section 6-6 Yield Right-of-Way Signs at Certain Intersections  
Section 6-7 Turning Regulated  
Section 6-8 Unlawful Passing  
Section 6-9 Crosswalks and Safety Zones  
Section 6-10 Weight Limitations on Certain Streets  
Section 6-11 Blocking Intersections and Crosswalks  
Section 6-12 Driving on Sidewalks and in Parks (Amended 9/14/2021)  
Sections 6-13 through 6-18 Reserved

#### Article III – Speed Limits

Section 6-19 General Speed Limits  
Section 6-20 Speed Limits  
Sections 6-21 through 6-22 Reserved

#### Article IV – Parking

Section 6-23 Parking Prohibited in Certain Locations; No Traffic Control Devices Required  
Section 6-24 Parking Prohibited at All Times (Tow-Away)  
Section 6-25 Parking Prohibited for Certain Purposes  
Section 6-26 Parking Close to Curb; Marked Spaces  
Section 6-27 Angle Parking  
Section 6-28 Parking Large Vehicles (adopted 5/8/18)  
Section 6-29 Reserved

#### Article V – Loading and Unloading Zones

Section 6-30 Generally  
Section 6-31 School Loading Zones  
Section 6-32 Commercial Loading Zones  
Sections 6-33 through 6-35 Reserved

#### Article VI – Miscellaneous

Section 6-36 Funeral Processions  
Section 6-37 Special Provisions for Bicycles, Toy Vehicles, et Cetera  
Section 6-38 Handicapped Only Parking Spaces  
Section 6-39 Vehicle Processions

Section 6-40 Horses or Livestock or Animal-Draw Vehicles Prohibited on Main Street  
and Wesleyan Drive during December

Section 6-41 Golf Carts / Utility Vehicles Prohibited (adopted 10/13/2020)  
(amended 9/14/2021)

Section 6-42 Reserved

## Article VII – Penalties and Remedies

Section 6-43 Penalties and Remedies

### Article I

#### DEFINITIONS AND INTERPRETATIONS

##### Section 6-1 Definitions and Rules of Construction.

Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this chapter.

1. Administrator: The person designated by the Council to perform the functions assigned by this chapter to the administrator. Whenever this ordinance authorizes or requires the administrator to install a traffic control device controlling parking or regulating the movement of traffic on, to, or from a state-highway-system street and the installation of such a device is in practice a function of the State Department of Transportation, the administrator may discharge his responsibility by requesting the State Department of Transportation to install such device.
2. Driver: The operator of a vehicle.
3. Highway or Street: The entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purpose of vehicular traffic. The terms "highway" or "street" or a combination of the two terms shall be used synonymously.
4. Intersection: The area embraced within the prolongation of the lateral curb lines or, if none, the lateral edge of roadway lines of two or more highways which join one another at any angle whether or not one such highway crosses the other. Where a highway includes two roadways thirty feet or more apart, then every crossing of such divided highway by an intersection highway shall be regarded as a separation intersection.
5. Local Street: A street within the town that is a publicly maintained street and not part of the state highway system.
6. Motor Vehicle: Every vehicle that is self-propelled and every vehicle designed to run upon the highways that is pulled by a self-propelled device.
7. Operator: A person in actual physical control of a vehicle that is in motion or that has the engine running.

8. **Parking or standing:** A vehicle is parked or is permitted to stand when it is stopped and allowed to remain in a fixed location for any duration of time, whether attended or unattended. Except where the context clearly indicates otherwise, the limitations on parking and standing in this chapter apply only to location within a street right of way. In no case do these limitations apply when a vehicle is stopped to avoid conflict with other traffic or in compliance with law or the directions of a police officer of traffic control devices or as the result of an emergency or because the vehicle is disabled.
9. **Roadway:** The portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. In the event a highway includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.
10. **Safety Zone:** A traffic island or other space that is officially set aside within a highway for the exclusive use of pedestrians and that is so plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.
11. **State-highway-system Street:** a street within the town that is part of the state highway system. Whenever this chapter regulates parking or the movement of traffic on, to, or from a state-highway-system street, then to the extent that concurrence by the State Department of Transportation is necessary (by passage of a concurring ordinance or otherwise) such regulations shall not become effective until such concurrence is obtained. The streets or portions of streets within the town that are part of the state-highway-system are listed in Appendix A to this chapter, Section 6A-1.
12. **Street:** See "highway."
13. **Traffic Control Device.** Any sign, signal, marking or other device placed or erected pursuant to a lawfully adopted ordinance and designed to regulate, warn, guide or control traffic.
14. **Traffic control signal:** Any device designed to regulate, guide, or control traffic through the use of alternating or flashing lights or by some other mechanical means.
15. **Vehicle:** Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power used exclusively upon fixed rails or tracks; provided, that for the purposes of this chapter bicycles shall be deemed vehicles and every rider of a bicycle upon a highway shall be subject to the provisions of this chapter applicable to the drive of a vehicle except those which by their nature can have no application.
16. **Golf Cart:** A vehicle designed and manufactured for operation on a golf course for sporting or recreation purposes and that is not capable of exceeding speeds of 20 miles per hour.

17. Utility Vehicle (UTV): A motor vehicle that is (i) designed for off-road use and (ii) used for general maintenance, security, agricultural, or horticultural purposes.  
“Utility vehicle” does not include an all-terrain vehicle or golf cart, as defined in this section, or a riding lawn mower.

18. Processions: See Section 6-38.

## Article II

### TRAFFIC CONTROL AND TRAFFIC CONTROL DEVICES

#### Section 6-2 Stoplights Required at Certain Intersection and Locations.

- a) The administrator shall erect or install mechanical stoplights to regulate vehicular and pedestrian traffic at the intersections and locations set forth in Appendix A, Section 6A-2. The effect of such stoplights on vehicles and pedestrians shall be as provided in G.S. 20-158 and 20-172.

The administrator shall erect signs notifying motorists that no right turn on red is permitted at the locations designated in Appendix A, Section 6A-3. When such signs are erected, no person may make a right turn against a red light contrary to such signs. Making such a right turn contrary to such signs is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

#### Section 6-3 Flashing Red or Yellow Lights Required at Certain Intersections and Locations.

The Town shall erect or install mechanical red or yellow blinking or flashing lights at the locations specified in Appendix A, Section 6A-4. The effect of such blinking or flashing red or yellow lights on vehicles and pedestrians shall be as provided in G.S. 20-158 and 20-172. Failure to obey these traffic signals is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

#### Section 6-4 Stop Signs Required at Certain Intersections.

- a) The second-named street in the list of intersections set forth in Appendix A, Section 6A-5, is hereby designated as a main traveled or through street, and the Town shall erect stop signs on the first name street at the entrance to the main traveled or through streets. The effect of such stop signs on vehicles and pedestrians shall be as provided in G.S. 20-158 and 20-172.
- b) The intersections of the streets set forth in Appendix A, Section 6A-6, are declared to be four-way stop intersections, and the Town shall erect stop signs on each street at the entrance to the intersection. The effect of such a stop sign on vehicles and pedestrians shall be as provided in G. S. 20-158 and 20-172.

If any such street comes under the ownership and maintenance of the North Carolina Department of Transportation (NCDOT), such stop sign shall thereafter be owned and maintained by NCDOT.

## Section 6-5 One-Way Streets.

- a) Whenever a street is designated a one-way street and traffic control devices are installed in accordance with subsection (b), no person may drive a vehicle on such street except in the direction indicated by the traffic control devices. (Note: G.S. 20-165.1 makes it unlawful to drive contrary to a sign erected by the State Department of Transportation.)
- b) The streets set forth in Appendix A, Section 6A-7 are hereby designated one-way streets, and the administrator shall install appropriate traffic control devices at every intersection clearly indicating the direction of lawful traffic movement.
- b) Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

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## Section 6-6 Yield-Right-of-Way Signs at Certain Intersections.

The second named street in the list of intersections set forth in Appendix A, Section 6-8, is hereby designated as a main traveled or through street, and the Town shall erect yield-right-of-way signs as provided in G. S. 20-148 and 20-172 on any such street that is owned and maintained by the Town

## Section 6-7 Turning Regulated.

- a) No person may make a "U" turn upon any street except at the terminus of a dead end street.
- b) Whenever, pursuant to subsection (c), appropriate traffic control devices are installed that clearly indicated that right or left turns or all turns are prohibited or required from a particular lane of traffic, no person may drive any vehicle contrary to the directions of any traffic control device so installed.
- c) The following restrictions on turning (as set forth in Appendix A, Section 6A-9) shall henceforth be in effect at the indicated locations, and the administrator shall install appropriate traffic control devices that clearly and adequately notify drivers of the turns required or prohibited.
- d) Turns prohibited at intersections: Appendix A, Subsection 6A-9 (a).
- e) Left turns prohibited: Appendix A, Subsection 6A-9 (b).
- f) Right turns prohibited: Appendix A, Subsection 6A-9 (c).

g) Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

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## Section 6-8 Unlawful Passing.

- a) Whenever, pursuant to subsection (b), appropriate traffic control devices have been installed that clearly indicate that no passing is allowed on a portion of any street, no driver of a vehicle may overtake and pass another on any portion of any street so restricted. (Note: G.S. 20-150 (e) makes it unlawful to pass contrary to signs posted by the State Department of Transportation.)
- b) The Town may install appropriate traffic control devices on Town maintained streets to indicate that no passing is allowed whenever and wherever he determines that passing would be unsafe on that portion of a street because:
  - 1) The street intersects with another street;
  - 2) The slope or grade of the street is such or the street curves to such an extent that a driver's view is obstructed within a distance of 500 feet;
  - 3) Any other conditions exist making passing hazardous.

3)c) Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

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## Section 6-9 Crosswalk and Safety Zones.

The Council finds that there is a particular danger to pedestrians crossing the roadway at the locations set forth in Appendix A, Section 6A-10, and that administrator shall establish and maintain crosswalks and safety zones at these locations by placing marks or lanes upon the surface of the roadway or by other traffic control devices. The effect of such crosswalks upon vehicles and pedestrians shall be as provided in G.S. 20-173 and 20-174, and other provisions of law. As provided in G.S. 20-160 (b), no driver of a vehicle may drive through or over a safety zone.  
Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

## Section 6-10 Weight Limitations on Certain Streets.

- a) Whenever, pursuant to subsection (b), the Town installs a traffic control device on any Town maintained street clearly stating or indicating that through trucks are not permitted on a street or any portion thereof, no person may drive any truck having six wheels or more on any such street or portion thereof unless the truck's destination or point or origin is on that street.
- b) The streets or portions thereof set forth in Appendix A, Section 6A-11 are hereby designated "no through trucks" streets and the Town shall install appropriate traffic control devices that clearly give notice of such designation.
- c) Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

b)

## Section 6-11 Blocking Intersections and Crosswalks.

No driver may enter an intersection or marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians. Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

#### Section 6-12 Driving on Sidewalks and in Parks.

- a) Subject to subsection (b) and the strictures and permissions of Section 6-41 below, no person may operate any automobile, tractor, truck, motorcycle, go-cart, mo-ped, or other motorized vehicle on any town sidewalk, within any town park, or on any other town property except in those areas clearly designated or intended for the public use of motor vehicles.
- b) Subsection (a) shall not apply to persons performing maintenance work or carrying out some other legitimate function on behalf of the town, nor shall subsection (a) prohibit driving across a sidewalk at a driveway to obtain ingress to or egress from any lot served by such driveway.
- c) Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

#### Section 6-13 Reserved.

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### Article III

#### Section 6-19 General Speed Limit.

As provided in G.S. 20-141 (b) (1), no person may drive a vehicle on a street or in a public vehicular area in excess of 35 miles per hour unless a different speed is established by this article. Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

#### Section 6-20 Speed Limits.

- a) Whenever a speed limit has been established and appropriate traffic control devices have been installed in accordance with subsection (b), no person may operate a vehicle on any street in excess of the posted speed.
- b) The speed limits set forth in Appendix A, Section 6A-12, shall be applicable to the streets names therein, so long as they are owned and maintained by the Town and the Town shall install appropriate traffic control devices clearly indicating the established speed limit.
- c) The Speed limits set forth in Appendix A, Section 6A-13, shall be applicable to the streets named herein (which are in the vicinity of a public or private elementary or secondary school), and the Town shall install appropriate traffic control devices clearly indicating the established speed limit.
- d) The reduced speed limits set forth in Appendix A, Section 6A-13, shall not be in effect for more than 500 feet on either side of the school property line.

d) e) The reduced speed limit set forth in Appendix A, Section 6A-13, shall be effective only for the period running from thirty minutes before the time school begins until thirty minutes after school ends its daily schedule.

e) Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

Section 6-21, 6-22 Reserved.

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## Article IV

### Section 6-21 Parking Prohibited in Certain Locations; No Traffic Control Devices Required.

- a) No person may park any vehicle or permit it to stand in any of the following locations:
  - 1) As provided in G.S. 20-162, in front of a private driveway;
  - 2) As provided in G.S. 20-162, within 15 feet of either direction of a fire hydrant (whether or not located in a public right of way) or the entrance to a fire station;
  - 3) As provided in G.S. 20-162, within 15 feet of the intersection of curb lines, or if none, then within 15 feet of the intersection of property lines at an intersection of highways;
  - 4) Within an intersection or on a marked crosswalk;
  - 5) Within 30 feet of any traffic control signal or device installed at an intersection, regardless of whether the vehicle is located within or outside of the public right-of-way;
  - 6) On a sidewalk or on the space between the sidewalk and the curb;
  - 7) In any portion of a roadway intended to carry traffic at the time such vehicle is parked or left standing;
  - 8) On the roadway side of any vehicle stopped, standing, or parked at the edge of a curb or street;
  - 9) Alongside or opposite any street excavation or obstruction when such parking or standing would obstruct traffic;
  - 10) Upon any bridge, overpass, or other elevated structure or within any tunnel or other underpass structure;
  - 11) Within 50 feet of the nearest rail of a railroad crossing;
  - 12) In any alley or private road in such a manner or under such conditions as to leave available less than 10 feet of width of the roadway for the free movement

of vehicular travel or to block the driveway entrance to any abutting property; and

13) In any parking space clearly marked as reserved for the handicapped, whether on public or private property, unless the driver or a passenger in such vehicle is handicapped.

b) The administrator may install no-parking signs, yellow curb markings or other traffic control devices to indicate where parking and standing is prohibited as stated in subsection (a), but enforcement of the provisions of this section is not dependent on the installation of such devices.

c) Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

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#### Section 6-24 Parking Prohibited At All Times (Tow-Away).

a) Whenever, pursuant to subsection (b), the administrator has installed signs, yellow pavement markings, or other traffic control devices clearly indicating that parking or standing within a specified area is prohibited, or is allowed only at certain times for a certain duration, no person may park any vehicle or permit it to stand contrary to the directions of those traffic control devices.

b) The administrator shall install no-parking signs, yellow curb markings, or traffic control devices and standing is prohibited under the circumstances and at the locations set forth in Appendix A, Sections 6A-14 through 6A-16.

c) A change of positions of vehicle from one point directly to another point within the same block or parking lot shall be deemed one continuous parking period.

d) Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

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#### Section 6-25 Parking Prohibited for Certain Purposes.

No person may park any vehicle or permit it to stand upon any street for any of the following principal purposes:

- 1) Displaying it for sale, except foreclosure and judicial sales;
  - 2) Washing, greasing, changing tires, or repairing such vehicle, except to the extent necessitated by an emergency;
  - 3) Storing it;
- 4) Advertising.

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4) Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b), except that the provisions regarding sale or advertising shall be punishable only by a civil penalty not to exceed \$50.00 and to be paid within 72 hours.

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#### Section 6-26 Parking Close to Curb; Marked Spaces.

- a) Except as otherwise provided in this article, no person may park a vehicle or permit it to stand in a roadway other than parallel with the edge of the roadway, heading in the direction of lawful traffic movement, and with the wheels of the vehicle within eighteen inches of the curb or the edge of the roadway.
- b) The administrator may mark any street where parking is permitted with lines that indicate the parking space for vehicles, and no person may park any vehicle outside such lines.

#### Section 6-27 Angle Parking.

- a) Whenever, pursuant to subsection (b), pavement markings have been installed to indicate that angle parking is permitted, no person may park or permit a vehicle to stand within the area so marked unless the vehicle is located entirely within a marked space.
  - b) The administrator may mark for angle parking those areas where parking is permitted under this chapter that the administrator determines are most appropriate for this form of parking, taking into account the need to maximize the number of available parking spaces, consistent with the free flow of traffic and the safety of pedestrians and motorists.
- b)c) Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

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#### Sections 6-28 Parking Large Vehicles.

**Commented [TC1]:** Addition of Section 6-28 Parking Large Vehicles was amended on 5/8/2018.

No person may park any vehicle exceeding seven feet in width on any street, except while actively engaged in loading and unloading. Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b). (Adopted 5/8/18)

#### 6-29 Reserved.

### Article V

#### LOADING AND UNLOADING ZONES

#### Section 6-30 Generally.

Notwithstanding any other provision of this article, whenever streets or portions of streets are designated as vehicle loading and unloading zones in accordance with the provisions of this article, parking and standing are permitted in those locations, but only in accordance with the

provisions of this article. Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

Section 6-31 School Loading Zones.

- a) Whenever a school loading zone is designated and clearly marked by traffic control devices in accordance with subsection (b), no person may park any vehicle or permit it to stand in any such zone for any purpose other than the expeditious loading or unloading of school passengers, and then only for a period not to exceed ten minutes.
- b) The Council finds that a school loading zone is necessary in the location set forth in Appendix A, Section 6A-17, to permit children and other passengers to be loaded and unloaded from vehicles in safety, and the administrator shall install traffic control devices to give clear notice that parking or standing within the following location is limited to ten minutes.
- b) Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

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Section 6-32 Commercial Loading Zones.

- a) Whenever a commercial loading zone is designated and marked by traffic control devices in accordance with subsection (b), no person may park any vehicle there or permit it to stand in any such zone for any purpose other than the expeditious loading or pickup of materials and goods, or unloading and delivery.
- b) The Council finds that a commercial loading and unloading zone is necessary in the location set forth in Appendix A, Section 6A-18, to accommodate the needs of adjacent businesses and enterprises, and that such a zone is consistent with the necessary free flow of traffic and the public safety, and the administrator shall install appropriate traffic control devices to give clear notice that parking or standing in such location is prohibited except for loading and unloading purposes.

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Sections 6-33 through 6-35 Reserved.

## Article VI

### MISCELLANEOUS

#### Section 6-36 Funeral Processions.

- a) A funeral procession shall be identified as such in a manner determined by the chief of police to be adequate to give notice to the other drivers of the existence of such a procession.
- b) Each driver in a funeral procession shall drive as near to the righthand edge of the road as practicable and shall follow the vehicle ahead as closely as possible consistent with obedience to traffic control signals and safe driving practices.
- c) No person may drive a vehicle between the vehicles constituting a funeral procession when such vehicles are in motion and are conspicuously designated as provided in subsection (a).
- d) Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

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#### Section 6-37 Special Provisions for Bicycles, Tow Vehicles et cetera.

- a) No person upon roller skates or a skateboard or riding in or by means of any coaster, toy vehicle, or similar device may go upon any roadway except which crossing a street at a crosswalk.
- b) No person upon roller skates or a skateboard or riding a bicycle, coaster, toy vehicle or similar device may attach himself or such a vehicle or device to any moving motor vehicle.
- c) The driver of a motorcycle or bicycle when upon the street may not carry any other person upon the handlebars, tank, or any other part of a motorcycle or bicycle not designated for carrying passengers.
- d) No person shall ride a skateboard or skate on rollerblades on the sidewalks within the town limits of McAdenville.

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#### Section 6-38 Handicapped Only Parking Spaces.

##### 1. Purpose.

It is the purpose of this ordinance to protect the health and safety of physically handicapped citizens and to insure their equal access to public facilities by designating and reserving "Handicapped Only" parking spaces at or near public facilities, and to provide for the enforcement of North

Carolina General Statute 20-37.6 which makes it unlawful to park or leave standing any vehicle in a space designated for physically handicapped persons when such a vehicle does not display the distinguishing license plate or placard provided by North Carolina law, and where appropriate above ground signs or symbols and words giving notice hereof are erected marking the designated parking space.

## 2. Amendment of Charter and Code of Ordinances.

This ordinance shall amend "Charter and Code of Ordinances of the Town of McAdenville" and shall be designated Section 6-38, of Chapter 6, Article VI. The penalty provision shall amend Chapter 6, Article VII.

## 3. Designation of Parking Spaces for "Handicapped Only".

- a) "Handicapped Only" parking spaces may be designated on any publicly owned or controlled street or property, including, but not limited to, streets, off-street parking lots, parks and recreation facility sites and properties leased by the Town for a public purpose.
- b) "Handicapped Only" parking spaces shall be clearly marked with above ground signs in accordance with the requirements of G.S. 20-37.6.
- c) The following locations are hereby designated as "Handicapped Only" parking spaces:
  - 1) The space to the left of the steps as one leaves the Post Office on Main Street.
  - 2) The space closest to the former library on South Street.
  - 3) Two spaces in front of the Community Center on the easterly side of Main Street before its intersection with a private driveway.

## 4. Duties of Law Enforcement Officers.

It shall be the duty of the law enforcement officers of the Town of McAdenville to enforce the provisions of Article 2A of Chapter 20 of the North Carolina General Statutes, specifically G.S. 20-37.6, in accordance with Section 5 of this ordinance.

## 5. Penalty.

Any person or persons unlawfully parking a vehicle in a properly designated and marked "Handicapped Only" parking space shall be subject to a civil penalty in the amount of one-hundred dollars (\$100.00) to be recovered by the Town. —The offender shall be issued a written citation requiring payment be made to the Town within 72 hours.

**Commented [BD2]:** Gene: Look at NCGS 27-37.6(f).  
Penalty can be from \$100-\$250. McAdenville needs to confirm that \$100 is OK.

## Section 6-39 Vehicle Processions.

- a) A vehicle procession is a group of motor vehicles:
  - 1) Led by a vehicle of a law enforcement agency with territorial jurisdiction whose blue warning lights are in operation;
  - 2) Traveling in single file with headlights in operation;

- 3) The final vehicle of which shall be a distinctive sign, flag, or marking.
- b) The operator of any motor vehicle traveling on or entering on the streets or highways shall yield the right of way to a vehicle procession.
- c) A vehicle procession shall have the right of way at any intersection regardless of the method of traffic control which is present or in operation at said intersection.
- d) Any operator of any motor vehicle who fails to yield right of way to a vehicle procession shall be liable for an infraction and shall receive a penalty or thirty-five dollars and costs.
- e) No vehicle, not a part of the procession, shall be driven through a vehicle procession except the emergency vehicles set forth in G.S. 20-156 and 20-157 when operated in conformity with the provision of G.S. 20-156 and 20-157.
- f) In speed zones having a maximum speed limit of 25 miles per hour or less, a vehicle procession may travel at the maximum speed limit. In speed zones having a maximum speed of greater than 25 miles per hour, a vehicle procession shall not exceed a speed of ten miles per hour less than the posted speed limit.
- g) Any person, firm, corporation, partnership, organization or entity whatsoever who shall request the Police Department of McAdenville to provide a vehicle to lead a vehicle procession shall be deemed to have agreed to indemnify the Town of McAdenville, the Police Department, and any and all of their officers, agents, servant, or employees from any damages, harm, or liability whatsoever, which shall arise from their involvement in the vehicle procession as requested.

h) This article is adopted pursuant to the authority conferred by G.S. 20-169.

h)i) Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

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Section 6-40 Prohibition of Horses or Livestock or Animal-Drawn Vehicles on Main Street and Wesleyan Drive in the Town of McAdenville during the month of December.

- a) Prohibition of Horses and Livestock. No person shall ride, walk, or drive, or use in any other means, horses or livestock on Main Street and Wesleyan Drive during the month of December.
- b) Prohibition of Animal-Drawn Vehicles. No person shall operate a horse-drawn or any other animal-drawn vehicle, including cart, carriage, wagon or sled, on Main Street or Wesleyan Drive during the month of December.

h)c) Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

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Section 6-41 Golf Carts / Utility Vehicles Prohibited (adopted 10/13/2020)

← **Commented [TC3]:** Golf Cart / Utility Vehicles Prohibited  
Text Amendment adopted 10/13/2020

- a) Golf Carts/ Utility Vehicles Prohibited. No person shall operate a golf cart or UTV on any street, highway, or greenway within the Town of McAdenville.

This ordinance does not prohibit or regulate any device which is principally designed for and intended to be used as a means of transportation for a person with a mobility impairment, where such device is suitable for use both indoors and outdoors, and where such device is limited by design to a top speed of 15 miles per hour, when said device is being operated by a person with a mobility impairment, or by someone who uses said device for mobility enhancement.

This ordinance does not prohibit any such vehicles, as listed above, from being operated by a member of the Cramerton Police Department, Cramerton Fire Department, Town Staff, or contracted labor hired by the Town of McAdenville, while in conjunction with official business.

Any Golf Cart or UTV-type vehicle that complies with the requirements of state law, which make it a street legal vehicle and therefore eligible for usage on public streets as prescribed by law, shall be exempt from the requirements of this chapter as they are regulated by state motor vehicle laws.

Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

Section 6-42 Reserved.

Article VII

PENALTIES AND REMEDIES

Section 6-43 Penalties and Remedies.

~~Except as otherwise indicated herein, any violation of this Article shall be subject to the penalty provisions of Section 1-10. Specific remedies listed in the sections above are, except as may be prohibited by law, applicable in addition or in the alternative to penalties imposed by statute.~~

APPENDIX A (to Chapter 6)

Section 6A-1 State Highway System Streets.

Commented [BD4]: MCADENVILLE TO UPDATE

In accordance with subsection 6-1 (11), the following constitutes a list of all streets or parts thereof that are part of the street highway system:

Street	From	To
Saxony Drive	Town Limits	Pharr-Stowe Plant
N.C. 7 (Main Street)	Town Limits West	Town Limits East
Ford Drive	N.C. 7 (Main Street)	Pine Drive
Pine Drive	Ford Drive	Dead End South
Oak Drive	Ford Drive	Dead End North

Mockingbird Lane	N.C. 7 (Main Street)	U.S. 29 & 74
Wright Road (SR 2210)	U.S. 29 & 74	Town Limits
Wesleyan Drive	N. C. 7 (Main Street)	U.S. 29 & 74
Hickory Grove Road (SR 2000)	N.C. 7 (Main Street)	Town Limits
Hillcrest Drive	N.C. 7 (Main Street)	Town Limits
Beechbrook Drive	N.C. 7 (Main Street)	Hillcrest Drive

#### Section 6A-2 Stoplights

**Commented [BD5]: MCADENVILLE TO UPDATE**

In accordance with subsection 6-2 (a), stoplights shall be placed at the following locations:

<u>Street</u>	<u>Intersecting Street</u>
N.C. 7 (Main Street)	Dickson Drive

#### Section 6A-3 No Right Turn on Red Intersections

**Commented [BD6]: MCADENVILLE TO UPDATE**

In accordance with subsection 6-2 (b), an operator of a vehicle may not make a right turn on traffic control signals emitting a red light facing the vehicle on the following approaches to the following intersections:

<u>Street</u>	<u>Intersecting Street</u>	<u>Approach From</u>
		(Reserved)

#### Section 6A-4 Flashing Signals

**Commented [BD7]: MCADENVILLE TO UPDATE**

In accordance with Section 6-3, flashing red and yellow lights shall be installed at the following intersections with the flashing red light exhibited to the stop street and the flashing yellow light exhibited to the main street:

<u>Street</u>	<u>Intersecting Street</u>	<u>Approach From</u>
		(Reserved)

#### Section 6A-5 Stop Signs

**Commented [BD8]: MCADENVILLE TO UPDATE**

In accordance with subsection 6-4 (a), the administrator shall erect stop signs at the stop streets listed below along with the approach to the main street as indicated:

<u>Stop Street</u>	<u>Approach</u>	<u>Main Street</u>
South Street	South	Poplar Street
Dickson Drive	South	Main Street
Mockingbird Lane	North	Main Street
Hillcrest Street	South	Main Street
Elm Street	West	Main Street
Elm Street	East	Willow Drive
Oak Street	North	Main Street
Poplar Street	West	Main Street
Poplar Street	East	Wesleyan Drive

Willow Drive	South	Main Street
North Street	North	Main Street
Wesleyan Drive	North	Main Street
Lakeview Drive	North	Main Street
Riverside Drive	West	N.C. 7 (Main Street)
Rankin Hill Circle	North	Hickory Grove Road
Lorance Road	South	Riverside Drive
Hillcrest Drive	South	Riverside Drive
Beechbrook Drive	South	Riverside Drive

#### Section 6A-6 Four Way Stop.

**Commented [BD9]: MCADENVILLE TO UPDATE**

In accordance with subsection 6-4 (b), the administrator shall erect stop signs on the following streets at each approach to the intersection:

<u>Street</u>	<u>Intersection Street</u>
(Reserved)	

#### Section 6A-7 One Way Street.

**Commented [BD10]: MCADENVILLE TO UPDATE**

In accordance with Section 6-5, the following streets are designated as one way, with vehicular travel limited to the direction of travel indicated:

<u>Street</u>	<u>Direction of Travel</u>	<u>From</u>	<u>To</u>
Willow Drive Circle	North	I-85	Return
Saxony Circle	North	Power Drive	North 217 feet from return
South Street (alley)	North	Poplar Street	Main Street
North Street (alley)	North	Poplar Street	Main Street
Poplar Street	East	Main Street	Wesleyan Drive

#### Section 6A-8 Yield Intersections.

**Commented [BD11]: MCADENVILLE TO UPDATE**

In accordance with Section 6-6, the administrator shall erect yield right-of-way signs on the yield streets listed below along the approach to the main street as indicated:

<u>Yield Street</u>	<u>Approach</u>	<u>Main Street</u>
(Reserved)		

#### Section 6A-9 Turns Prohibited.

**Commented [BD12]: MCADENVILLE TO UPDATE**

- a) In accordance with Section 6-8, no person shall be permitted at the following intersections by person operating a vehicle on the first named street in the indicated direction at the location of the second named street:

<u>On Street</u>	<u>Direction</u>	<u>At Street</u>
------------------	------------------	------------------

(Reserved)

- b) In accordance with Section 6-8, no person operating a vehicle on the first named street and moving in the direction indicated below may make a left turn onto the second named street at the times indicated below:

<u>On Street</u>	<u>Direction</u>	<u>At Street</u>	<u>Time Prohibited</u>
(Reserved)			

- c) In accordance with Section 6-8, no person operating a vehicle on the first named street and moving in the same direction indicated below may make a right turn onto the second named street at the times indicated below:

<u>On Street</u>	<u>Direction</u>	<u>At Street</u>	<u>Prohibited</u>
(Reserved)			

#### Section 6A-10 Crosswalks and Safety Zones.

- a) In accordance with Section 6-9, crosswalks shall be established on the following streets at the indicated locations:

<u>Street</u>	<u>Location of Crosswalk</u>
Main Street	From Unit 18 Stowe Mills, across to supply room
Wesleyan Drive	From Main Mill Office across to accounting office
Main Street	From alley way across to Willow Drive
Main Street	From Oak Street at an angle to 25 feet west of Elm Street

**Commented [BD13]: MCADENVILLE TO UPDATE**

- b) In accordance with Section 6-9, safety zones shall be established on the following streets at the indicated locations:

<u>Street</u>	<u>Location of Safety Zones</u>
(Reserved)	

**Commented [BD14]: MCADENVILLE TO UPDATE**

#### Section 6A-11 No Through Truck Streets.

In accordance with Section 6-10, the following streets or portions thereof are designated "no through truck" streets:

<u>Street</u>	<u>From</u>	<u>To</u>
Mockingbird Lane	Main Street	US 29/74

**Commented [BD15]: MCADENVILLE TO UPDATE**

#### Section 6A-12 Speed Limits.

In accordance with subsection 6-20 (b), the following speed limits are established for the streets indicated:

Speed Limit

**Commented [BD16]: MCADENVILLE TO UPDATE**

(MPH)	On Street	From	To	
		Village Subdivision	Village Subdivision	
20	All Streets			
15	Willow Drive Circle	Entire Street		
15	McAdenville Drive	Main Street	End	
15	Hillcrest Street	Main Street	End	
15	South Street	Main Street	Poplar Street	
15	North Street	Poplar Street	Main Street	
15	Lorance Road	N.C. 7	End	
15	Saxony Drive Circle	Saxony Drive	Return	
15	Forest Heights Drive	Wesleyan Drive	End	
20	Academy Street	Wesleyan Drive	End	
20	Church Street Circle	Church Street	Church Street	
20	Cedar Street	Lakeview Drive	Lakeview Drive	
15	Hillcrest Drive	N. C. 7 (Riverside Drive)		
15	Beechbrook Drive	N. C. 7 (Riverside Drive)	Hillcrest Drive	
15	Rankin Hill Circle	SR 2000 (Hickory Grove Road)	Return	
15	South Willow Drive	N.C. 7 (Main Street)	End	
15	Elm Street	N. C. 7 (Main Street)	Willow Drive	
15	Willow Drive Circle	Dickson Drive	Return	
15	Oak Drive	N. C. 7 (Main Street)	End	
15	Poplar Street	N. C. 7 (Main Street)	Wesleyan Drive	
15	Oak Drive, North	Ford Drive	End	
15	Pine Street, South	Ford Drive	End	
20	Rankin Road	Hickory Grove Road	Rankin Circle	
20	Saxony Drive Ext.	Saxony Drive	Return	
25	Saxony Drive	Town Limits	Town Limits	
25	Main Street	McAdenville Drive	West End of South Fork River Bridge	
20	Church Street	Wesleyan Drive	End	
20	Lakeview Drive	Main Street	Church Street	
25	Wesleyan Drive	Main Street	End (Hwy. 29/74)	
25	Wright Road	U. S. 29/74	End	
25	Dickson Drive	Main Street	End	
25	Ford Drive (SR 2208)	The western corporate limits of McAdenville, a point 0.08 mile east of SR 2366, Pinewood Drive	Main Street (NC 7)	
35		All Other Streets		

**Commented [CB17]:** Amended Speed Limit for entire Neighborhood (all streets) 20 MPH 7/12/16

Section 6A-13    Speed Limits Adjacent to Schools

**Commented [BD18]:** MCADENVILLE TO UPDATE

In accordance with subsection 6-20 (c), the following reduced speed limits are established for the following streets adjacent to elementary or secondary schools. The reduced speed limits apply only during the period between thirty minutes before and thirty minutes after the regular school day.

<u>Street</u>	<u>From</u>	<u>To</u>	<u>Speed Limit (MPH)</u>
Saxony Drive	Town Limits	East 1/10 of mile	25

#### Section 6A-14      Parking Prohibited At All Times.

**Commented [BD19]: MCADENVILLE TO UPDATE**

In accordance with Section 6-24, parking is prohibited at all times along the following streets or portions of streets:

<u>On Street</u>	<u>Side</u>	<u>From</u>	<u>To</u>
Aviary Court	Both	Main Street	South 650 feet
Elm Street	Both	Main Street	East 156 feet
		Across from Aviary Court	
N. C. 7 (Main Street)	North & South	Wesleyan Drive	East Side of South Fork River Bridge
Main Street (NC 7)	West	0.1 mi. south of Mockingbird Lane (SR 2349)	0.1 mile north of Poplar St.
<i><b>NOTE: This is also described as</b></i>			
Main Street (NC7)	West	159 feet south of upper drive of W. J. Pharr residence	306 feet of lower drive of W. J. Pharr residence (a distance of 253 feet)
Saxony Drive	South	Town Limits	East 333 feet
Saxony Drive	North	Town Limits	East 348 feet
Willow Drive Circle	Both	Entire Street	

#### Section 6A-15      Parking Prohibited During Certain Hours.

**Commented [BD20]: MCADENVILLE TO UPDATE**

In accordance with Section 6-24, parking is prohibited along the following streets or portions of streets during the hours specific except on Sundays and legal holidays:

<u>On Street</u>	<u>Side</u>	<u>From</u>	<u>To</u>	<u>Hours Prohibited</u>
(Reserved)				

#### Section 6A-16      Two Hour Parking Allowed.

**Commented [BD21]: MCADENVILLE TO UPDATE**

In accordance with Section 6-24, parking is prohibited along the following streets or portions of streets for a period longer than two hours between 8:00 a.m. and 6:00 p.m. on any day except Sundays and legal holidays:

<u>On Street</u>	<u>Side</u>	<u>From</u>	<u>To</u>
Main Street	South	Wesleyan Drive	South Street
North Street (alley)	Both Sides	Poplar Street	Main Street

Section 6A-17 School Loading Zones.

In accordance with Section 6-31, the following locations shall be designated as school loading zones:

<u>On Street</u>	<u>Side</u>	<u>From</u>	<u>To</u>	<u>Time Period</u>
Wesleyan Drive	East	South School Driveway	North School Driveway	8:00-9:00 a.m. 2:00-3:00 p.m.

Section 6A-18 Commercial Loading Zones.

In accordance with Section 6-32, the following locations shall be designated as commercial loading zones:

<u>On Street</u>	<u>Side</u>	<u>From</u>	<u>To</u>	<u>Time Period</u>
Poplar Street	North	North Street	South Street	7:00 a.m.-7:00 p.m.
Poplar Street	North	North Street	Wesleyan Drive	7:00 a.m.-7:00 p.m.

Section 6A-19 Public Carrier Loading Zones.

1. In accordance with Section 6-33, the following locations shall be designated as bus stop areas:

<u>On Street</u>	<u>Side</u>	<u>From</u>	<u>To</u>
(Reserved)			

2. In accordance with Section 6-33, the following locations shall be designated as taxicab loading zones:

<u>On Street</u>	<u>Side</u>	<u>From</u>	<u>To</u>
(Reserved)			

## CHAPTER 7

### STREETS AND SIDEWALKS

#### Article I – Obstructions

- Section 7-1 Obstructions Prohibited
- Section 7-2 Overhanging or Protruding Trees, Shrubs, Fences, et cetera
- Section 7-3 Drainage Related Interference with Sidewalks
- Section 7-4 Warning Required for Obstruction
- Section 7-5 Depositing Injurious Materials on Street
- Section 7-6 Snow and Ice Removal
- Sections 7-7 through 7-10 Reserved

#### Article II – Driveways and Excavations

- Section 7-11 Driveways
- Section 7-12 Excavations
- Section 7-13 Town Indemnified
- Sections 7-14 Curb Cut Ordinance
- Section 7-15 Reserved

#### Article III – Street Events

- Section 7-16 Activities Covered
- Section 7-17 Permit Required
- Section 7-18 Permit Application
- Section 7-19 Staff Review
- Section 7-20 Expedited Permit Procedure
- Section 7-21 Insurance
- Section 7-22 Standards for Issuance of Permit
- Section 7-24 Sponsor Responsible for Cleanup
- Sections 7-25 through 7-30 Reserved

#### Article IV – Miscellaneous

- Section 7-31 Damaging Street Surfaces, Street Signs, Other Facilities
- Section 7-32 Reserved
- Section 7-33 Administrator
- Section 7-34 Penalties and Remedies

## Article I

### OBSTRUCTIONS

#### Section 7-1 Obstructions Prohibited.

- a) Except as otherwise authorized by statute or ordinance (including Sections 7-11 and 7-12 of this chapter), and except to the extent required by the performance of some function authorized or mandated by a statute or ordinance, no person may obstruct or impede travel in the public streets or sidewalks within the town by placing or leaving any object within the traveled portion of the public right-of-way.
- b) Except as provided in this subsection, subsection (a) applies, but is not limited to, good, wares, or merchandise displayed for sale. Partial obstruction of a public sidewalk for a sidewalk sale is permissible in accordance with a permit issued by the administrator upon a finding that:
  - 1) The sale will not extend for more than three consecutive days; and
  - 2) The obstruction will take place only during daylight hours; and
  - 3) The permit, together with any other permits issued to the same applicant or to other applicants for sale at the same location, will not authorize an obstruction for more than ten days during any 365-day period; and
  - 4) The sidewalk will only be partially obstructed in a manner that does not seriously inconvenience the public or threaten the public safety.
- c) If a permit is issued pursuant to subsection (b), no person may cause, suffer, or permit the operation of a sidewalk sale in violation of the conditions set forth in subdivisions (b) (1) through (4) or any other conditions attached to the permit.

d) Subsection (a) shall not apply to temporary obstructions caused by persons engaged in construction work on abutting property when proper warning devices are maintained in accordance with Section 7-4.

e) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

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#### Section 7-2 Overhanging or Protruding Trees, Shrubs, Fences, et cetera.

- a) No person may cause or allow (from property under his control) any tree limb, bush, shrub, or other growth or any trellis, fence or other obstruction to overhang a public street at a distance of less than 12 feet above the traveled portion of such street or a public sidewalk at a distance of less than 7 feet above such sidewalk.

- b) No person may cause or allow grass, vines, weeds, or other vegetation to grow from property under his control over, onto, or across any public street or sidewalk.
- c) Any violation of subsection (a) or (b) is declared to be a public nuisance, and if not corrected by the responsible person within three days after being notified of the violation by the administrator, the town may summarily abate such nuisance.
- d) Violation of this section is punishable by a civil penalty not to exceed \$50.00, with each day that the condition remains unabated after first notice constituting a separate violation.

#### Section 7-3 Drainage Related Interference with Sidewalks.

- a) No person may cause or permit gutters, ditches, ducts, or drain pipes to be constructed or placed on property under his control in such a manner that the water from such gutters, ditches, ducts, or drain pipes empties onto or runs across a public sidewalk.
- b) Subject to the next sentence, all owners of property abutting concrete, brick, or other permanently improved public sidewalks shall grade such property or construct a retaining wall in such a manner as to prevent the washing of dirt, grass, gravel, or other material upon the town sidewalks. If the town constructs a sidewalk, it shall be responsible initially for taking the necessary steps to prevent the washing of such materials upon the sidewalk.

- b) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

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#### Section 7-4 Warnings Required for Obstructions.

- a) All persons engaged in doing work that creates any dangerous condition or obstruction in the public right-of-way of any street or sidewalk shall take whatever action is necessary, including the placement of barricades and warning signs or devices, to warn the traveling public of the condition or obstruction.
- b) No person may remove, destroy, injure, or tamper with any barricade, sign, lantern, torch, or other device placed in any street or sidewalk to warn or give notice to the traveling public of any dangerous condition or obstruction.

- b) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

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#### Section 7-5 Depositing Injurious Material on Street.

- a) No person may throw or deposit upon any street or public right-of-way any glass bottle, nails, tacks, wire, paper containers, cans, or any other substance likely to injure any person, animal or vehicle.

b) Any person who deliberately or inadvertently causes or allows any of the materials specified in subsection (a) to be deposited on any public street or right-of-way shall immediately remove such materials or cause them to be removed.

b)c) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

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#### Section 7-6 Snow and Ice Removal.

Every occupant of a store building, in front of which the sidewalk is paved with stone, brick, asphalt, or cement, shall remove snow, ice, or other similar obstruction from such sidewalk at the earliest possible time and as soon as weather permits.

Violation of this section is punishable by a civil penalty not to exceed \$50.00, with each day that the condition remains unabated after first notice constituting a separate violation.

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#### Sections 7-7 through 7-10 Reserved.

## Article II

### DRIVEWAYS AND EXCAVATIONS

#### Section 7-11 Driveways.

- a) Except as otherwise provided in this section, no person may open, construct, alter, or relocate any driveway across any public sidewalk or into any street, or cut any curb for such purpose without having obtained a written permit from the administrator.
- b) Any person who receives a permit under this section shall be responsible for repairing any damage to the sidewalk or street (including curb and gutter) caused by the driveway construction.
- c) The administrator shall review the driveway construction and design plans and shall issue the permit unless he finds the driveway, if constructed as proposed will substantially interfere with or pose a danger to (i) persons using the street or sidewalk intersected by the driveway or (ii) public facilities (including utility poles, traffic signal standards, et cetera), or will fail to comply with any of the provisions of this section.
- d) No driveway may be constructed closer than three feet to a fire hydrant or catch basin or closer than thirty feet to the right-of-way line of a street that intersects with the street the driveway opens onto.

- e) If the driveway crosses a drainage ditch on a lot that abuts a street without curb or gutter, then piping of sufficient size and strength (as approved by the administrator) shall be installed beneath the driveway surface so that the drainage capability of the drainage ditch is not materially impaired.

f) This section shall not apply to driveways that open onto state-maintained streets to the extent that the state has approved the driveway.

g) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

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#### Section 7-12 Excavations.

- a) Except as otherwise provided in this section, no person may dig in or excavate any street or sidewalk within the town without having obtained a written permit from the administrator.

b) Any person who receives a permit in accordance with this section shall be responsible for putting the street or sidewalk where any excavation is made in as good condition as it was prior to the excavation.

b)

- c) Before granting a permit pursuant to this section, the administrator shall determine that the applicant has made arrangements to comply with subsection (b), and if the town is to do the necessary repair work, the permit shall not be issued until the applicant makes a deposit equal to the estimated costs of repair.

d) Without limiting the generality of the foregoing, this section applies to any utility operating within the town. However, this section shall not apply to any excavation made in a state-maintained street to the extent that the state has given its permission for such an excavation to be made, except that the person making the excavation shall still be responsible for notifying the administrator of the intended excavation forty-eight hours before the work begins.

e) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

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#### Section 7-13 Town Indemnified.

Any person obtaining a permit authorized by Section 7-11 (Driveways) or 7-12 (Excavations) agrees as a condition of the permit to indemnify the town for and hold the town harmless from any expense (including but not limited to attorney's fees, litigation costs and judgments) incurred as a result of claims made for damages arising out of operation conducted by the permit recipient pursuant to the permit.

#### Section 7-14 Curb Cut Ordinance.

## 1. Purpose

It is recognized that driveway connections onto a road serve to increase traffic flow and volume on that road. Increased traffic flow, if left unchecked, can lead to traffic congestion, increased travel times, and to an increase in the number of accidents involving motorists, cyclists, and/or pedestrians. The purpose of this ordinance, per G.S. 160A-307, is therefore to promote this orderly flow of traffic on streets through the Town of McAdenville and to provide for increased safety for pedestrians, cyclists, and motorists alike, by providing street curb-cuts and other associated road improvements through the issuance of driveway permits.

## 2. Administration

This ordinance shall be administered by the Town Clerk or designee appointed by the Town Council (hereafter referred to as the “Administrator”).

## 3. Applicability

- a) This ordinance shall be applicable within the corporate limits of the Town of McAdenville.
- b) This ordinance shall be applicable when a building or parcel of land is proposed to be used or occupied without any associated building construction or alteration; or whenever a Zoning Permit, as stipulated in the Town of McAdenville Zoning Ordinance, is required. Adherence to this ordinance, however, shall not be required for any of the following:
  - i) The initial development of a single-family or two-family dwelling structure, along with related accessory structures, on a recorded lot.
  - ii) Initial construction or expansion of residential accessory structures.
  - iii) Initial construction of non-residential accessory structures which are less than five-hundred (500) square feet in area; or an expansion of a non-residential accessory structure by less than fine-hundred (500) square feet.
  - iii) An enlargement of an existing principal non-residential structure by less than twenty (20) percent of its existing gross floor area, provided such enlargement does not necessitate the creation of additional off-street parking or loading spaces as may be required by the Town of McAdenville Zoning Ordinance.
  - iv) A change in principal use which would not necessitate the creation of additional off-street parking and/or loading spaces.

## 4. Driveway Permits

- a) An application for a driveway permit may be made (and approved by the Administrator) simultaneously with a zoning permit application.
- b) Having received and reviewed a complete application, the Administrator shall have the authority to (i) approve the driveway permit without conditions (ii) where applicable, approve the permit in conformity with any other conditions previously placed on the property in question by the Town of McAdenville (iii) recommended to the Town Council that the permit be approved subject to certain fair and reasonable conditions be attached, or (iv) deny the application. Any such determination shall be made and/or the application transferred to the Town Council for action within forty-five (45) days of receipt of the application. The application will be deemed approved as submitted if the application is not transferred to the Town Council within said forty-five (45) day period,
- c) The Administrator or the Town Council may only approve the driveway permit application having first determined that the proposed development, land improvement, or use of property meets each of the following findings:
  - i. The proposed use of development will not serve to impede the flow of traffic through the Town of McAdenville.
  - ii. The proposed use or development will not be a safety deterrent for pedestrians, cyclists, and motorists.

The Administrator or Town Council may deny an application if each of the above findings are not found in the affirmative. Any conditions placed on the driveway permit by the Town Council shall be in support of an in harmony with each of the above referenced findings of fact.

- d) Any decision of the Administrator regarding the driveway permit may be appealed to the Town Council provided such appeal is made in writing no greater than thirty (30) days of the date of such decision.

## 5. Penalties

- ¶ Violation of this section by failure to obtain proper permitting or adhere to the terms of a valid permit is punishable by a civil penalty not to exceed \$50.00, with each day that the condition remains unabated after first notice constituting a separate violation.

Section 7-15 Reserved.

## Article III

## STREET EVENTS

### Section 7-16 Activities Covered.

This article applies to all street fairs, festivals, carnivals, parades, marches, rallies, demonstrations, and other activities or public events that require the temporary closing or obstruction of all or a portion of any street or other public right-of-way or substantially hinders or prevents the normal flow of vehicular or pedestrian traffic along any street or other public right-of-way. Any such activity covered by this article shall hereafter be referred to as "the event."

### Section 7-17 Permit Required.

No person may run, operate or sponsor any event in any public street or right-of-way without a permit obtained from the Council in accordance with this Article. Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4 by cost of court and a fine of greater than \$50.00 but not more than \$500.00.

### Section 7-18 Permit Application.

Application for the permit authorized by this article shall be submitted on a form provided by the administrator and shall contain the following information:

- 1) Name, address, and telephone number of the person, organization or entity seeking to conduct or sponsor the event;
- 2) Name, address, and telephone number of the individual in charge of the event;
- 3) The proposed date and time period when the event will be conducted;
- 4) A sketch-map showing:
  - a. The area where the event is to take place.
  - b. Any street to be closed or obstructed.
  - c. Any barriers or traffic control devices that will be erected.
  - d. The location of any concession stand, booth, or other temporary structures or facilities.
  - e. The location of proposed fences, stands, platforms, benches, or bleachers.
- 5) The approximate number of people expected to attend the event;
- 6) When applicable, a request that the town provide specified services and/or that the town close identified streets or portions of streets for a particular period;
- 7) Sufficient proof of liability insurance in accordance with Section 7-21;
- 8) Any other information determined by the administrator to be necessary to insure compliance with this article.

### Section 7-19 Staff Review.

Upon receipt of the permit application, the administrator shall circulate it to the police chief, the fire chief, and other appropriate persons for their comment. The administrator may

arrange to have a conference on the application with the applicant and one or more department heads.

#### Section 7-20 Expedited Permit Procedures.

When the principal purpose of an event is to exercise a freedom protected under the First Amendment to the United States Constitution, the Council concludes that an expedited permit approval process is warranted. Therefore, the Council shall act on permit requests for such events as soon as an emergency meeting can reasonably be called.

#### Section 7-21 Insurance.

The Council may require as a condition precedent or subsequent to issuance of the permit that the applicant obtained a comprehensive general liability insurance policy or comparable special events liability insurance policy issued by an insurance company authorized to do business in this state, with coverage that includes the entire area of the event. If such a policy is required, the town shall be named as an additional insure on the policy. The policy limits of such insurance shall be not less than:

Property damage                    \$50,000 for each occurrence

Bodily injury or death                \$100,000 for person  
    \$300,000 for each occurrence

#### Section 7-22 Standards for Issuance of Permit.

a) The Administrator shall issue the permit authorizing the event unless he/she finds that:

- 1) Conduct of the event will require the assignment of so many police officers that the remainder of the town cannot adequately be protected; or
- 2) The event will interfere with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services cannot be provided throughout the town; or
- 3) The applicant has failed to obtain any necessary permits or licenses, including any required building permit or privilege license, or the applicant is otherwise in violation of any town ordinance; or
- 4) The event will cause a severe hardship on persons occupying property adjacent to the site, location, or route of the event as a result of the denial of access to property or for other substantial reasons; or

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- 5) The event, if held at the time or at the location or along the route proposed, will cause an unreasonable and unwarranted disruption to vehicular or pedestrian traffic; or
  - 6) The applicant has failed to comply with any of the provisions of this article, including the payment of any fees required.
- b) If a permit is issued in accordance with subsection (a), the Administrator may attach to it any reasonable conditions.
  - c) If the Administrator finds that he/she cannot issue the permit for reasons specified in subsection (a), he/she may request the applicant to modify its application to remove any objections to the issuance of the permit. Alternatively, the applicant can appeal the Administrator's decision to the Town Council. The Council shall have the authority to stay, overturn or amend the decision of the Administrator.
  - d) Any event conducted pursuant to a permit issued under this section shall be conducted strictly in accordance with the terms of the permit, including any conditions attached hereto.

| Section 7-23 Street Closings.

- a) If the Council finds that the permit should be issued and that, to conduct the event, it is necessary to close a street or to reroute traffic, it may pass a resolution authorizing this to be done. No such resolution shall be passed affecting streets that are part of the state street system without the approval of the State Department of Transportation.
- b) The resolution shall identify the street or portion thereof to be affected and shall indicate the date and time when the street or portion thereof is to be closed or traffic thereon is too limited in some way. The resolution may also direct the administrator to have appropriate traffic control devices installed to give notice of the temporary traffic controls.
- c) No person may operate any vehicle contrary to the traffic control devices installed in accordance with subsection (b).
- d) The administrator shall, by any adequate means, notify persons occupying property abutting the street where the event is to take place of the contents of any resolution passed in accordance with this section.

| Section 7-24 Sponsor Responsible for Cleanup.

The sponsor of the event shall be responsible for cleaning up any litter caused by the event, removing all temporary obstructions, and in general returning the area where the event takes place to the condition that existed prior to the event. The Council may require the sponsor to post a bond or other sufficient security to guarantee compliance with this section. [Failure of an event sponsor](#)

to adhere to the requirements of this section is punishable by a civil penalty of up to \$500.00 or the costs the Town incurs in cleanup efforts, whichever is greater.

Sections 7-25 through 7-30 Reserved.

## Article IV

### MISCELLANEOUS

#### Section 7-31 Damaging Street Surfaces, Street Signs, Other Facilities.

- a) No person may intentionally mutilate, deface, remove, damage, or in any manner interfere with any of the street name signs, traffic control signs and devices, and other signs erected by any public body.
- b) No person may drag, run, or cause to be dragged or run upon any public street any harrow or other implement, machine or tool likely to injure or cut the surface of such street.
- c) No person may intentionally damage, injure, obstruct or otherwise interfere with any street, sidewalk, bridge, culvert, ditch or drain owned or maintained by the town.
- d) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

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#### Section 7-32 Reserved.

#### Section 7-33 Administrator.

As used in this chapter, the term "administrator" refers to the person designated by the Council to perform the responsibilities assigned to the administration of this chapter.

#### Section 7-34 Penalties and Remedies.

~~A violation of any of the following sections shall constitute a misdemeanor, punishable as provided in G.S. 14-4 as provided in Section 1-10.~~

## Chapter 8

### TRADES AND BUSINESSES

Section 8-1    Temporary Vendors Prohibited During December

Section 8-2    Reserved

Section 8-1    **Temporary Vendors Prohibited During December**

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A. No person may, during the month of December, operate a temporary concession within the Town of McAdenville. A temporary concession shall include; but not be limited to: the selling or giving away of any goods, food, beverages, merchandise, literature or services or in any other way solicit persons within the Town limits.

B. No existing business may between the hours of 5:00 p.m. and 11:00 p.m. during the month of December engage in any of the following:

1. outside sale or display of merchandise;
2. outdoor advertising not used on a year-round basis;
3. erection of outdoor temporary showrooms;
4. outside serving or dining areas not used on a year-round basis;
5. charging for or renting of parking spaces.

C. It shall NOT be a violation of Subsection A of this Section:

1. for any not-for-profit organization, located permanently within the Town, to offer goods, food, beverages, merchandise or literature for fund-raising purposes or at no cost and within their permanent structure within the Town limits during December. For purposes of this section, a permanent, not-for-profit organization shall mean a religious organization, school, civic club or other organization recognized as a 501(c)(3) organization by the Internal Revenue Code, located in a permanent structure affixed to a lot that has operated continuously within the Town for at least six months prior to December; and has at least five (5) parking spaces available for client use;

2. if the temporary vendor has been approved as a part of a Special Event Permit issued by the Town pursuant to Chapter 7, Article III of the Town of McAdenville Code of Ordinances.

D. No person may conduct or participate in any activity during the month of December and between the hours of 5:00 p.m. and 11:00 p.m. that disrupts in any manner or impedes in any manner vehicular or pedestrian traffic.

E. Violation of this section is punishable by a civil penalty in the amount of \$200.00.

Section 8-2 Reserved

## CHAPTER 9

### STATE OF EMERGENCY

- Section 9-1 State of Emergency
- Section 9-2 State of Emergency Declared by Mayor
- Section 9-3 Contents of Proclamation
- Section 9-4 Publication of Proclamation
- Section 9-5 Effect of Proclamation; Curfew
- Section 9-6 Termination of State of Emergency
- Section 9-7 Penalties

#### Section 9-1 State of Emergency Defined.

A state of emergency exists whenever, during times of public crisis, disaster, rioting, catastrophe, or similar public emergency for any reason town public safety authorities are unable to maintain public order or afford adequate protection for lives, safety or property, or whenever the occurrence of any such condition is imminent.

#### Section 9-2 State of Emergency Declared by Mayor.

- a) Whenever the mayor finds that a state of emergency exists within all or a portion of the town, he shall issue a proclamation declaring such state of emergency in accordance with Sections 9-3 and 9-4.

#### Section 9-3 Contents of Proclamation.

This proclamation issued by the mayor shall declare to all persons that a state of emergency exists and shall set forth:

- 1) The area which the state of emergency exists, which may be the entire town or a specifically described portion of it; and
- 2) The date and time from which the proclamation shall be effective; and
- 3) Any restrictions and prohibitions that shall be effective during the state of emergency and the penalties for violations; and
- 4) The date and time when the state of emergency shall terminate, unless extended or earlier terminated in accordance with Section 9-6.

#### Section 9-4 Publication of Proclamation.

- a) For the purpose of making effective the prohibitions and restrictions imposed by the proclamation, publication may consist of reports of the substance of the proclamation's contents, including such prohibitions and restrictions, in the mass

communications media serving the affected area or other effective methods of disseminating the necessary information quickly.

- b) Notwithstanding subsection (a), the full text of the proclamation shall be published as soon as practicable in one or more newspapers serving the affected area and may be posted in various places or otherwise disseminated to give the clearest notice practicable of its contents.

#### Section 9-5 Effect of Proclamation; Curfew.

- (a) A proclamation of a state of emergency shall activate any local civil preparedness plan and shall authorize the town to seek assistance from the county, state, and federal governments in accordance with the provisions of Chapter 166A of the General Statutes. ~~Violations of any provisions of this Section 9-5 are punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.~~
- (b) The mayor is authorized in the proclamation to impose a curfew applicable to all persons within the area described in the proclamation. The curfew may be made effective during all or any portion of any day during the state of emergency. During such curfew, no person may, within the area affected by the curfew:
  - 1) Possess of his own premises, buy, sell, give away, or otherwise transfer or dispose of any explosives, firearms ammunition or dangerous weapon of any kind; or
  - 2) Sell beer, wine or intoxicating beverages of any kind or possess or consume the same off his own premises; or
  - 3) Sell gasoline or any similar petroleum products except when pumped or piped directly into the tank of a motor vehicle; or
  - 4) Travel upon any public street or highway or upon public property unless such person is in search of medical assistance, food or other commodity or service necessary to sustain the well-being of himself or his family or some member thereof or unless such person is engaged in the performance of some function necessary to preserve the public health or safety, such as police and fire officers, other emergency service personnel, utility employees, doctors and nurses, et cetera.

4(c) Violation of any enumerated provision of subsection (b) above is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

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#### Section 9-6 Termination of State of Emergency.

A state of emergency and any restrictions imposed in connection therewith shall automatically terminate at the end of five days after it becomes effective, except that the same:

- 1) May be continued for another five-day period by the publication of a new proclamation; or
- 2) May be earlier terminated by the mayor, who may issue a proclamation declaring the state of emergency to be over at any time he concludes that to be the case, and who shall issue a proclamation if the Council concludes that the state of emergency has ended.

**Section 9-7 — Penalties**

**Violations of this Ordinance shall be governed as provided in Section 1-10.**

## **CHAPTER 10**

### **REGULATION, CONTROL AND CARE OF ANIMALS**

#### **Article I – Regulation under Gaston County Animal Control Ordinance**

- Section 10-1 Enforcement with Town Limits of Gaston County Animal Control Ordinance
- Section 10-2 Dog Lease Law
- Section 10-3 Wild Animals and Livestock Prohibited
- Sections 10-4 through 10-6 Reserved

#### **Article II – Feeding of Ducks, Migratory Birds and Geese Prohibited along Wesleyan Drive**

- Section 10-7 Prohibition of Feeding
- Section 10-8 Notice to be Posted
- Sections 10-9 through 10-10 Reserved

#### **Article III – Horses or Livestock Prohibited on Main Street and Wesleyan Drive during December**

- Section 10-11 Prohibition of Horses and Livestock
- Sections 10-12 Prohibition of Animal-Drawn Vehicles
- Section 10-13 Reserved

#### **Article IV – Pet Pigs Prohibited in Town**

- Section 10-14

### **Article I**

#### **REGULATIONS UNDER GASTON COUNTY ANIMAL CONTROL ORDINANCE**

##### **Section 10-1 Enforcement within Town of Gaston County Animal Control Ordinance.**

- a) The Town of McAdenville here authorizes Gaston County to enforce within the town that certain Animal Control Ordinance adopted by the County Board of Commissioners and made effective July 1, 1981, as such ordinance is amended from time to time.
- b) Sections 10-2 and 10-3 set forth provisions that are more restrictive than the provisions contained in the Gaston County Animal Control Ordinance. To the extent that there is a conflict between the provisions set forth below and the Gaston County Animal Control Ordinance, the provisions of this chapter shall take precedence. The Gaston County Animal Shelter Superintendent and Animal

Control Officer are authorized to enforce Sections 10-2 and 10-3 on behalf of the town, and the town clerk is authorized if necessary to enter into an agreement with Gaston County for such enforcement.

#### Section 10-2 Dog Leash Law.

- a) Every person owning or having possession, charge, care, custody, or control of any dog shall keep such dog exclusively upon his own premises, or on the private premises of another with prior consent only, provided, however, that a dog may leave such premises only if:
  - 1) A dog is under restraint by virtue of being in the custody of a competent person and held by a leash, chain or other device of sufficient strength to maintain control by that person;
  - 2) A dog is under direct control by virtue of being in the custody of a competent person and sufficiently near that person to hear that person's commands and is obedient to those commands;
  - 3) A dog is under direct control by virtue of being held within a secure enclosure as defined in the Gaston County Animal Control Ordinance;
  - 4) A dog is engaged in organized hunting activities on private property with the consent of the owner of that property, providing that said dog is obedient to the commands of its owner.
- b) Violation of any of the enumerated provisions of subsection (a) above is punishable as a misdemeanor against the owner or custodian of the dog pursuant to N.C.G.S. § 14-4.
- c) A dog belonging to an identifiable owner or other person not complying with the provisions of subsection (a) shall be deemed to be at large and a stray animal. A dog that roams at large with no apparent ownership shall also be deemed to be at large and a stray animal.
- d) The Gaston County Animal Shelter and its superintendent and animal control officers are hereby authorized to capture and impound and, in certain cases, tranquilize or humanely destroy stray animals under this section, in accordance with applicable sections of the Gaston County Animal Control Ordinance.

#### Section 10-3 Wild Animals and Livestock Prohibited.

- a) For purposes of this section:

- 1) The term "wild animal" means an animal that (i) is typically found in a nondomesticated state and that, because of its size or vicious propensity or because it is poisonous or for any other substantial reason, poses a potential danger to persons, other animals or property, or (ii) is classified as a wild animal by the North Carolina Wildlife Resources Commission (W.L.C.) so that any person wishing to possess the same is required by state law to obtain a permit from the W.R.C.
  - 2) The term "livestock" includes horses, mules, cows, pigs, goats, sheep, fowl (such as chickens, ducks, turkeys, etc.), rabbits, and all other animals that typically are kept primarily for productive or useful purposes rather than as pets.
- b) No person may keep within the town any wild animals or any livestock, except that this provision shall not apply to animals kept within the McAdenville Aviary Garden.
- c) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

Sections 10-4 through 10-6 Reserved.

Article II

FEEDING OF MIGRATORY BIRDS AND GEESE PROHIBITED ALONG WESLEYAN DRIVE

Section 10-7 Prohibition of Feeding.

No person shall feed migratory ducks or geese in the Town of McAdenville at or near the lake on Wesleyan Drive. This ordinance does not apply to birds or geese kept within McAdenville Aviary Garden. Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

Section 10-8 Notice to be Posted.

The Town Clerk is hereby authorized and instructed to post conspicuous signage along Wesleyan Drive, indicating that feeding migratory ducks and geese is prohibited.

Sections 10-9 through 10-10 Reserved.

## Article III

### HORSES AND LIVESTOCK PROHIBITED ON MAIN STREET AND WESLEYAN DRIVE IN DECEMBER

#### Section 10-11      Prohibition of Horses and Livestock.

No person shall ride or walk horses or livestock on Main Street and Wesleyan Drive during the month of December. (2-10-98, Ordinance No. 98.2)

Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

#### Section 10-12      Prohibition of Animal-Drawn Vehicles

No person shall operate a horse-drawn or any other animal-drawn vehicle, including cart, carriage, wagon or sled, on Main Street or Wesleyan Drive during the month of December. Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

#### Section 10-13      Reserved

## Article IV

### PET PIGS PROHIBITED IN TOWN

#### Section 10-14      Pet Pigs Prohibited.

No person shall keep one or more pet pigs or swine in the Town of McAdenville. This ordinance shall not apply to McAdenville Aviary Garden. Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

## CHAPTER 11

### SOLID WASTE, SCRAP MATERIALS, ABANDONED VEHICLES, ABATEMENT OF PUBLIC NUISANCES

#### Article I – Definitions

Section 11-1 Definitions

#### Article II – Control of Solid Waste, Scrap Materials, Noxious Growth

Section 11-2 Accumulation of Solid Waste  
Section 11-3 Dumping or Littering on Public or Private Property  
Section 11-4 Transportation of Solid Waste within Town  
Section 11-5 Burning or Burying Solid Waste within Town  
Section 11-6 Scrap Materials: Declaration of Policy  
Section 11-7 Accumulation of Scrap Materials  
Section 11-8 Noxious Growth  
Sections 11-9 through 11-15 Reserved

#### Article III – Storage and Collection of Solid Waste

Section 11-16 through 11-25 Reserved

#### Article IV – Abandoned Motor Vehicles

Section 11-26 Removal of Abandoned Motor Vehicles Authorized  
Section 11-27 Notice Required Before Vehicle Removed  
Section 11-28 Notice Required When Vehicle Removed; Hearing  
Section 11-29 Use of Private Towing Operators  
Section 11-30 Certain Vehicles Exempt  
Section 11-31 Motor Vehicles Dangerous or Prejudicial to the Public Health or Safety  
Sections 11-32 through 11-35 Reserved

#### Article V – Abatement of Public Nuisances

Section 11-36 Public Nuisances Declared  
Section 11-37 Code Enforcement Officer to Issue Notice of Abatement  
Section 11-38 Code Enforcement Officer to Issue Notice of Abatement  
Section 11-39 Removal by Town upon failure of refusal of Owner to obey notice  
Section 11-40 Cost of removal and Administrative Fees to be paid by Owner  
Section 11-41 Unpaid charges to be a lien on property  
Section 11-42 Inspections  
Section 11-43 Addition Remedies  
Sections 11-44 through 11-50 Reserved

#### Article VI – Enforcement

Section 11-51 Penalties and Remedies

## Article I

### DEFINITIONS

#### Section 11-1 Definitions.

Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this chapter.

- 1) Abandoned motor vehicle. A vehicle that: (i) is left upon a street or highway in violation of a statute or town ordinance prohibiting parking; (ii) is left on property owned or operated by the town for longer than twenty-four hours; (iii) is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours; (iv) is left on any public street or highway for longer than seven days; (v) is left on any privately owned public vehicular area contrary to an ordinance adopted under authority of G.S. 160A-301 (d); (vi) is left on private property in a properly designated fire lane; (vii) is left on public or private property in a space properly designated as reserved for handicapped or visually impaired person or in a manner that obstructs a curb cut or curb ramp for handicapped persons; or (viii) may for any other reason lawfully be towed by a law enforcement officer (except that vehicles seized for evidence or pursuant to a levy under execution or otherwise seized or forfeited under any state statute shall not be considered abandoned vehicles under this chapter).
- 2) Code Enforcement Officer. The person designated by the Council to perform the functions and exercise the responsibilities assigned by this chapter to the Code Enforcement Officer.
- 3) Garbage. All solid wastes capable of being rapidly decomposed by microorganisms, including but not limited to animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food, as well as animal offal and carcasses, but excluding sewage and human wastes.
- 4) Motor Vehicles. Any machine designed or intended to travel over land or water by self-propulsion or while attached to a self-propelled vehicle.
- 5) Refuse. All solid wastes except (i) garbage and (ii) solids that are dissolved or suspended in domestic, commercial, or industrial waste effluent.
- 6) Scrap materials. Scrap materials are:
  - a) Pieces or fragments of metal, wood, glass, masonry, plastic, textiles, rope, leather, rubber, paper, or any other substance, that formerly were part of the construction of some useful object or thing or that consist of the excess resulting from the creation of some useful object or thing; or

- b) Objects or things, including but not limited to machines, tools, equipment, hardware, furniture, appliances, et cetera, or parts of the same that are no longer in serviceable condition or are valuable only as raw materials for reprocessing; or
- c) Motor vehicles or remnants thereof that (i) do not display current license plates, and (ii) cannot without substantial repairs be made to operate in the manner originally intended, and (iii) are valuable only as raw materials for reprocessing;

but that do not constitute solid wastes as herein defined because they are or may be useful to or wanted by or have not been discarded by the person in control of the premises where they have been located.

- 7) Solid wastes. Wastes that are nongaseous and nonliquid (except that liquid wastes resulting from the processing of food are deemed solid wastes for the purposes of this chapter).
- 8) Wastes. All useless, unwanted, or discarded materials resulting from domestic, industrial, commercial or community activities.

## Article II

### CONTROL OF SOLID WASTES, SCRAP MATERIALS, NOXIOUS GROWTH

#### Section 11-2 Accumulation of Solid Wastes.

- a) Subject to the qualifications contained in subsection (b), no person may cause, suffer, or permit solid wastes to accumulate or remain on premises under his control except that solid wastes may be stored on such premises in a manner that prepares them for collection at the next regularly scheduled pickup under the town's solid waste collection system.
- b) Natural solid waste materials resulting from lawn or garden work, such as bush and tree trimmings, leaves, grass, stumps, dirt and stones may be allowed to accumulate or remain on premises under a person's control unless these materials become or threaten to become a fire hazard or a harboring place for rats, mice, snakes, or other vermin or otherwise pose a danger to the public health or safety.

b) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4 by costs of court and a fine greater than \$50.00 but not to exceed \$500.00.

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#### Section 11-3 Dumping or Littering on Public or Private Property.

No person may place, discard, throw, drop, or deposit, or cause to be placed, discarded, thrown, dropped, or deposited any solid wastes on:

- 1) Any public street or sidewalk within the town or on any property owned or operated by the town or any other public property, except in properly designated receptacles; or
- 2) Any property not owned by him without the consent of the owner, occupant, or lessee thereof.

~~Note: G.S. 14-399 makes the acts prohibited in this section a misdemeanor, punishable by a fine of up to \$2,000. Therefore, this section may be enforced by the town only through civil penalties or injunctive relief, assessment of a civil penalty not to exceed \$1,000.00 and/or any injunctive relief available at law or in equity.~~

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#### Section 11-4 Transportation of Solid Waste Within Town.

No person may transport or cause to be transported any solid wastes on the public streets of the town unless the solid wastes are so secured that no solid wastes escape from the transporting vehicle. In addition, any garbage so transported shall be carried in closed containers that prevent the escape of noxious odors or liquids. Violation of this section is punishable as an infraction pursuant to N.C.G.S. § 14-4(b).

#### Section 11-5 Burning or Burying Solid Wastes.

- a) No person may burn or cause to be burned any garbage for purposes of disposal, and no person may burn or cause to be burned any refuse except as specifically authorized by Section 12-14 of this code.
- b) No person may bury or cause to be buried any solid waste for purpose of disposal.

~~b)(c) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4 by costs of court and a fine greater than \$50.00 but not to exceed \$500.00.~~

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#### Section 11-6 Scrap Materials: Declaration of Policy.

The Council hereby declares that the uncontrolled accumulation of scrap materials on any premises constitute a danger to the health, safety, and welfare of the citizens of the town in that such accumulations can furnish shelter and breeding places for vermin, present physical dangers to the safety and well-being of children and other citizens, pose a danger of fire and depreciate property values or cause a loss of business by detracting from the appearance and character of residential and commercial neighborhoods.

#### Section 11-7 Accumulation of Scrap Materials.

No person may cause, suffer, or permit scrap materials to accumulate or remain on premises under his control unless the scrap materials are:

- a) Surrounded by a fence of sufficient height, strength, and construction to deny persons, especially small children, access to them and to shield neighboring properties from the view of them; or
- b) Are so stored within a structure or within a container outside of a structure as to minimize substantially the dangers set forth in Section 11-6.

Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4 by costs of court and a fine greater than \$50.00 but not to exceed \$500.00.

b)

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#### Section 11-8 Noxious Growth.

No person may cause, suffer, or permit on premises under his control any growth of weeds, grasses, or other plants or bushes that become or threatens to become a fire hazard or a harboring place for rats, mice, snakes or other vermin or otherwise poses a danger to the public health or safety.

Sections 11-9 through 11-15 Reserved.

### Article III

#### STORAGE AND COLLECTION OF SOLID WASTES

Sections 11-16 through 11-25 Reserved.

### Article IV

#### ABANDONED MOTOR VEHICLES

#### Section 11-26 Removal of Abandoned Vehicles Authorized.

- a) Subject to subsection (b), whenever it is made to appear to appropriate town officials that abandoned motor vehicles exist within town limits, the town may have the vehicles removed and thereafter may dispose of them in accordance with the provisions of this article.
- b) No motor vehicle classified as abandoned because it is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours may be removed without the written request of the owner, occupant, or lessee of the premises. The town

may require any person requesting the removal of such vehicle to indemnify the town against any loss, expense, or liability incurred because of the removal, storage, or sale thereof.

b) The owner of an abandoned vehicle within town limits is subject to penalty in the form of an infraction pursuant to N.C.G.S. § 14-4(b).

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Section 11-27 Notice Required Before Vehicle Removed.

a) Before removing a vehicle under the circumstances specified herein, the town shall attempt to notify the owner of its intent to tow such vehicles as provided in subsections (b) and (c). This pre-towing notification is required before removing a vehicle:

- 1) That is classified as abandoned because it is (i) left on property owned or occupied by the town for longer than twenty-four hours, or (ii) left on any public street or highway for longer than seven days.
- 2) That is classified as abandoned for any reason if such vehicle has neither a valid registration plate nor registration and the officer authorized the vehicle to be towed has made a reasonable but unsuccessful effort (including checking the vehicle identification number) to determine the owner of such vehicle, except that notification before towing such vehicle shall not be required if the vehicle impedes the flow of traffic or otherwise jeopardizes the public welfare so that immediate towing is necessary.

b) The notice required under subsection (a) shall:

- 1) Identify the vehicle;
- 2) Specify its location;
- 3) State why the vehicle is subject to removal;
- 4) Inform the owner that, unless the vehicle is removed by a specified date and time (which shall be at least seven days after the date the notice is mailed or posted under subsection (c)), the town shall have the vehicle removed, and that, in that event, all charges incident to the removal and storage of such vehicle will have to be paid before the vehicle may be reclaimed.
- 5) Provide the owner with the name and phone number of a representative of the town who may be contacted to discuss any matter contained in the notice.

c) The notice required in subsection (a) shall be sent by mail or posted on the vehicle as follows:

- 1) If notice is required under subdivision (a) (1), the notice shall be sent by mail to the owner of the vehicle at his last known address according to information derived from the registration number or vehicle identification number.
- 2) If notice is required under subdivision (a) (2), this notice shall be posted on the vehicle's windshield or some other conspicuous place.

Section 11-28 Notice Required When Vehicle Removed.

- a) Whenever any abandoned motor vehicle is towed in accordance with this article, the town shall promptly give notification to the owner of the matters set forth in subsection (d), if the owner can with reasonable diligence be identified and contacted.
- b) If the vehicle has a North Carolina registration plate or registration, notice shall be given to the owner within twenty-four hours. If the vehicle is not registered in this state, notice shall be given to the owner with seventy-two hours. This notice shall, if feasible, be given by telephone, but in any case notice shall also be mailed to the owner's address unless the owner or his agent waives this notice in writing.
- c) If the vehicle has neither a valid registration plate nor registration, then a reasonable effort shall be made (including checking the vehicle identification number) to identify the owner and notify him as promptly as possible of the matters set forth in subsection (d).
- d) The notice required under this section shall be sent by mail (certified, return receipt requested if the owner has not previously been reached by telephone) and shall:
  - 1) Contain a description of the vehicle;
  - 2) State why and under what authority the vehicle was removed and identify any violation with which the owner is charged;
  - 3) Explain where the vehicle is stored and what the owner must do to obtain possession (including paying the towing fee or posting a bond for double the amount of the fee);
  - 4) Inform the owner that he or she is entitled to request in writing a hearing before a magistrate to determine if probable cause existed for the towing. The notice shall further explain that if the magistrate finds probable cause did not exist, the tower's lien is extinguished and if the owner has already paid the towing fee, he or she will be entitled to reimbursement from the town.

Section 11-29 Use of Private Towing Operators.

The town may have vehicles removed under this article by private towing operators. Such private towing operators shall have a lien on the vehicles towed and may dispose of such vehicles in accordance with the provisions of Article 1 of G.S. Chapter 44A.

Section 11-30 Certain Vehicles Exempt.

The provisions of the article shall not apply to any vehicle in an enclosed building or any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the town.

Section 11-31 Motor Vehicles Dangerous or Prejudicial to the Public Health or Safety.

Nothing contained in this article shall be construed to limit the authority of the town to effect the removal or abatement of any motor vehicle, regardless of whether it is located on private property with the consent of the owner, lessee, occupant thereof, if the motor vehicle is found to constitute a situation dangerous or prejudicial to the public health or safety in accordance with Part 2 of Article V of this chapter because it is found to be:

- 1) A breeding ground or harbor for mosquitoes or other insects, snakes, rats, or other pests; or
- 2) A point of heavy growth of weeds or other noxious vegetation over 8 inches in height; or
- 3) Point of collection for pools or ponds of water; or
- 4) A point of collection for pools or ponds of water; or
- 5) So located that there is danger of the vehicle falling or turning over; or
- 6) A source of danger for children through entrapment in areas of confinement that cannot be opened from the inside of from exposed surfaces of metal, glass, or other materials; or
- 7) A danger to the public health or safety for other reasons.

Sections 11-32 through 11-35 Reserved.

## Article V

### ABATEMENT OF PUBLIC NUISANCES

#### Section 11-36 Public Nuisances Declared.

The existence of any of the following conditions on any vacant lot or other parcel of land within the corporate limits is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance.

- a) The uncontrolled growth of weeds, grass or noxious growth to a height of 18 inches or more, causing or threatening to cause a hazard detrimental to the public health or safety.
- b) Any accumulation of rubbish, trash or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health.
- c) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors, or by the inhabitation therein of rats, mice, snakes or vermin of any kind, which is or may be dangerous or prejudicial to the public health.
- d) The open storage of any abandoned icebox, refrigerator, stove, building material, building rubbish, inside furniture, metal, automobile parts, boxes or similar items.
- e) Any condition detrimental to the public health, safety and welfare or which violates the rules and regulations of the Gaston County Health Department.

#### Section 11-37 Code Enforcement Officer to Issue Notice of Abatement.

The Code Enforcement Officer, upon observation of the existence of any of the conditions described in Section 11.36, shall make such investigation as may be necessary to determine whether, in fact, such conditions exist as to constitute a public nuisance as declared in Section 11.36.

#### Section 11-38 Code Enforcement Officer to Issue Notice of Abatement.

- a) For purposes of this article, the respondent is the owner, occupant or person in possession of the property where a public nuisance as described in Section 11-36 is located.

- |
- b) Upon a determination that conditions constituting a public nuisance exist as described in Section 11-36 (a), the Code Enforcement Officer shall notify the respondent by first class mail postage prepaid and/or by telephone of such conditions, and shall order the prompt abatement thereof within five (5) days of the receipt of such notice. -When a respondent has failed to comply with a notice of violation as described above, the Code Enforcement Officer shall not be required to provide further notice of violation to that person with regard to the same property before taking any of the enforcement actions authorized by Article VI.

Section 11-39 Removal by Town upon Failure or Refusal of Owner to Obey Notice.

The Code Enforcement Officer may cause said condition to be removed or otherwise remedied by hiring appropriate independent contractors to go upon the premises and remove or otherwise abate such nuisance if the respondent, having been ordered to abate such a public nuisance, fails, neglects or refuses to abate or remove the condition constituting the nuisance within five (5) days from receipt of such order.

Section 11-40 Cost of Removal and Administrative Fee to be Paid by Owner.

The actual cost plus an administrative fee of 25% of the actual cost incurred by the town in removing or otherwise remedying a public nuisance shall be charged to the owner of such lot or parcel of land, and the owner shall pay these charges within 30 days after receiving a statement of charges from the town.

Section 11-41 Unpaid Charges to Be a Lien on Property.

In the event charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges as provided in Section 11-40, such charges shall become a lien upon the land or premises where the public nuisance existed, and shall be collected as unpaid taxes, as provided in N.C.G.S. 160A-193.

Section 11-42 Inspections.

Whenever an inspection is necessary in an investigation required by this article, the Code Enforcement Officer is hereby empowered to enter upon the property upon which there is a reasonable cause to believe a violation exists at any reasonable time to inspect the property, but only if the consent of the person in possession is freely given or a search or inspections warrant is obtained as follows:

- a) At occupied property the Code Enforcement Officer shall first present credentials to the occupant and request entry, explaining the reasons for his request.
- b) If the property is not occupied, the Code Enforcement Officer shall first make a reasonable effort to locate the owner or person in control of the property, present proper credentials and request entry, explaining the reasons for his request.

- c) If the person in charge refuses entry to the Code Enforcement Officer or cannot be found after a reasonable effort, the Code Enforcement Officer shall obtain a warrant to search or inspect the property.

#### Section 11-43 Additional Remedies

The procedures set forth in this chapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances, and this chapter shall not prevent the town from proceeding in a criminal or civil action or assessing civil penalties against any person, firm, or corporation violating the a provision or provisions of this chapter.

Sections 11-44 through 11-50      Reserved.

#### Article VI

##### Enforcement

#### Section 11-51 Penalties and Remedies

##### a) Criminal Penalty.

- 1) A violation of any of the following provisions of this chapter shall constitute a Class 3 misdemeanor, punishable as provided in N.C.G.S. 14-4 (a) by a fine of not more than five hundred dollars (\$500.00), except as provided below) or imprisonment by not more than 30 days. Fines for violations of Article II (except Section 11-3); Article III and Article V shall be one hundred dollars (\$100.00) for each offense.
- 2) A violation of Article IV regulating abandoned motor vehicles shall constitute an infraction, punishable as provided in N.C.G.S. 14-3.1 AND 14-1(b) by a penalty of fifty dollars (\$50.00).

##### b) Civil Penalty.

A violation involving conditions that constitute a public nuisance in of the restrictions imposed by Articles II and and/or V above shall also subject the offender to a civil penalty of one hundred dollars (\$100.00) for the first offense, two hundred fifty dollars (\$250.00) for the second offense, and five hundred dollars (\$500.00) for the third offense. If the offender fails to pay this penalty with fifteen (15) calendar days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of debt.

##### e)b) Separate and Distinct Offense.

Each day that any violation continues after a person has been notified that such violation exists and that he is subject to the penalties specific in subsection ~~(a) and (b)~~ shall constitute a separate and distinct offense.

④—The town may also, and in addition, seek and all appropriate equitable remedies, including injunction and/or abatement from the appropriate court of competent jurisdiction.

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e) Combination of Remedies under N.C.G.S. 160A-175.

The town may enforce this chapter by any one, all, or any combination of the foregoing remedies authorized by N.C.G.S. 160A-175.

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## CHAPTER 12

### FIRE PROTECTION

#### Article I – Interference with Fire Fighting Activities

- Section 12-1      Interference with Firemen; False Alarms
- Section 12-2      Riding on Fire Department Apparatus
- Section 12-3      Congregating at Fires
- Sections 12-4 through 12-8      Reserved

#### Article II – Fire Prevention

- Section 12-9      Inspection of Premises of Fire Hazards
- Section 12-10      Blocking or Obstructing Exits
- Section 12-11      Marking and Lighting of Exits
- Section 12-12      Number of Occupants Permitted
- Section 12-13      Fire Extinguishers Required
- Section 12-14      Open Burning
- Section 12-15      Fire Lanes
- Section 12-16      Responses to Rescue Emergencies
- Sections 12-17 through 12-20      Reserved

#### Article III – Miscellaneous

- Section 12-21      Fire Limits

- Section 12-22      Fire Chief

- Section 12-23      Penalties

#### Article I

#### INTERFERENCE WITH FIRE FIGHTING ACTIVITIES

##### Section 12-1      Interference with Firemen; Fire Alarms.

- a)      As provided in G.S. 69-39, no person may willfully interfere in any manner with firemen engaged in the performance of their duties.
- b)      As provided in G.S. 14-286, no person may wantonly and willfully give a false alarm or damage fire alarm, detection, or extinguishing equipment.
- c)      Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4 by costs of court and a fine greater than \$50.00 but not to exceed \$500.00.

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## Section 12-2 Riding on Fire Department Apparatus.

No person other than a member of the fire department may mount or ride upon any fire engine, wagon, or apparatus before it leaves the station or while on its way to or from a fire or at any other time, except by permission of the driver or officer in command. Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4 by costs of court and a fine greater than \$50.00 but not to exceed \$500.00.

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## Section 12-3 Congregating at Fires.

It shall be unlawful for persons to congregate on the streets, sidewalks, or other areas adjacent to a fire so as to interfere with the operations of members of the fire department. Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4 by costs of court and a fine greater than \$50.00 but not to exceed \$500.00.

## Sections 12-4 through 12-8 Reserved.

## Article II

### FIRE PREVENTION

## Section 12-9 Inspection of Premises for Fire Hazards.

- a) As provided in G.S. 69-4, the fire chief or chief of police may enter into all buildings and premises during reasonable hours to inspect for combustible materials or inflammable conditions dangerous to the safety of such building or premises.
- b) When any officer making an inspection in accordance with subsection (a) discovers combustible materials or inflammable conditions, he shall order the occupant or person in charge of the premises to remove or remedy such materials or conditions. Unless the person to whom the order is directed appeals to the Commissioner of Insurance within twenty-four hours, as provided in G.S. 69-4, the order shall be compiled with forthwith.
- c) Failure to comply with an order issued pursuant to subsection (b) above is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4 by costs of court and a fine greater than \$50.00 but not to exceed \$500.00.

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## Section 12-10 Blocking of Obstructing Exits.

- a) No person may block or substantially obstruct any fire escape, balcony, hallway, stairway, aisle, corridor, ramp, or other passageway or means of egress from any building, other than a single family residence, during the hours such building is occupied.

- b) No person having control over any fire escape or other area listed in subsection (a) may cause, suffer, or permit any such area to be blocked or substantially obstructed while the building to which these areas relate is occupied.

c) No person may lock doors in means of egress against the path of exit of travel when the building served by the means of egress is occupied.

e)d) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4 by costs of court and a fine greater than \$50.00 but not to exceed \$500.00.

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#### Section 12-11 Marking and Lighting of Exits.

a) In rooms accommodating or designed to accommodate more than fifty persons, doorways (other than those normally used for entrance or clearly visible from all points in the room) shall be marked by exit signs (approved by the fire chief) that are sufficiently illuminated to be readily visible when the room or space is occupied.

b) Where the exit doorways are not visible from all locations in public corridors, directional signs approved by the fire chief shall be placed on walls or otherwise displayed in conspicuous locations to direct occupants to exit doorways.

c) Fire escapes, stairways, hallways, and other means of egress shall be adequately lighted (not less than 1.0 foot candle on walking surfaces) at all times that the building served thereby is occupied.

e)d) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4 by costs of court and a fine greater than \$50.00 but not to exceed \$500.00.

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#### Section 12-12 Number of Occupants Permitted.

a) All rooms accommodating or designed to accommodate fifty or more persons shall be posted with a legible sign, conspicuously located, stating the maximum number of persons permitted in that room.

b) The owner or other person having control of the assembly of persons in any room where a sign posted pursuant to subsection (a) shall prevent occupancy of that room by more people than is authorized.

c) The number of permitted occupants shall be determined by the fire chief.

e)d) Violation of subsection (b) above is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4 by costs of court and a fine greater than \$50.00 but not to exceed \$500.00.

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### Section 12-13 Fire Extinguishers Required.

The owner or other person in charge of every premises used for non-residential purposes shall install sufficient portable fire extinguishers (of a kind and in locations prescribed by the fire chief) to afford reasonable protection to persons and property. Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4 by costs of court and a fine greater than \$50.00 but not to exceed \$500.00.

### Section 12-14 Open Burning.

- a) Except as provided in subsection (b) and (d), no person may burn or cause to be burned any material, including any solid waste or yard debris, outside of a building. The term solid waste includes trash, garbage, plastics, building and construction material, paper, cardboard, tires, rubber products, wire, wood that has been treated, painted or finished, or household and agricultural materials. The term yard debris includes leaves, weeds, brush, tree cuttings, or dead wood.
- b) A person may cook food outdoors in a grill, hibachi or cooker so long as the grill, hibachi or cooker is located in a safe area in the yard away from a porch, overhang, or balcony, and the person takes reasonable precautions to prevent danger from fire and pollution.
- c) The McAdenville Fire Department may do live burning for training purposes after obtaining all county, state and federal permits required.
- d) Nothing in this section shall relieve any person of the requirements of any other provisions of law governing outdoor burning or pollution from burning.
- e) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4 by costs of court and a fine greater than \$50.00 but not to exceed \$500.00.

### Section 12-15 Fire Lanes.

- a) As provided in G.S. 20-162, no person may park a motor vehicle in or otherwise obstruct a fire lane that is designated and marked as provided in this section. However, notwithstanding the foregoing, persons loading or unloading supplies or merchandise may park, temporarily in a fire lane located in a shopping center or mall parking lot as long as the vehicle is not left unattended.
- b) Whenever the fire chief determines that a portion of a street, road, other access way, or parking lot located adjacent to, near to or leading to a building used for residential purposes (other than single-family houses or duplexes) or according to the criteria set forth in subsection (c), he shall specifically describe to the person in control of such area

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(the owner or occupant) the precise dimensions and location of such area and require such person to make such area in accordance with the provision of subsection (d).

- c) A fire lane may be established in any area described in subsection (b) that needs to remain unobstructed so that fire fighting vehicles and other emergency vehicles have adequate access to buildings. Subject to subsection (d), the precise dimensions and location of each fire lane shall be determined by the fire chief, exercising his best professional judgment in furtherance of the objective stated in the previous sentence.
- d) Upon being provided with the information described in subsection (b) of this section, the person entitled to control over the area where the fire lanes have been established (the occupant or the owner) shall clearly mark the fire lanes as follows:
  - 1) If the fire lane is designated adjacent to a curb, the lane shall be marked by painting the curb yellow for the entire length of the fire lane and by posting legible signs alongside of the fire lane within three feet of the curb that state "No Parking, Fire Lane, Tow Away Zone." These signs shall be placed not lower than four feet from the ground nor higher than seven feet. Sufficient signs shall be placed so that no portion of the yellow pavement marking designating the fire lane is more than fifty feet from such a sign. When so designated, the fire lane shall comprise an area sixteen feet wide running adjacent to the yellow curb marking.
  - 2) If the fire lane is designated adjacent to the edge of a travel lane along which there is no curb but along which signs may be placed without obstructing the flow of traffic, then the lane shall be marked by posting legible signs alongside the fire lane that state "No Parking, Fire Lane, Tow Away Zone." These signs shall be placed not lower than four feet from the ground nor higher than seven feet. Such signs shall be placed at the extreme limits of the fire lane and at intervals of not more than eight feet. When so designated, the fire lane shall comprise an area sixteen feet wide running adjacent to the edge of the travel lane where the fire lane signs are posted.

~~3)~~ If the fire lane is designated in an area not adjacent to a curb and not in an area where signs can be conveniently posted, lanes shall be marked by outlining the perimeter of the lane with a yellow line not less than three inches wide, and painted on the pavement within the fire lane the words "No Parking, Fire Lane, Tow Away Zone" in letters not less than three inches high, so that no portion of the fire lane is more than thirty feet from the painted words "Fire Lane."

- e) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4 by costs of court and a fine greater than \$50.00 but not to exceed \$500.00.

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- a) The Fire Chief or his designee shall have the authority to summarily abate, control, or mitigate technical rescue situations that generally endanger the health or safety of the general public.
- b) The Fire Chief or his designee shall have the authority to enter public or private property, with or without the property's owner's consent, to respond to mitigate such technical rescue incidents.
- c) The Fire Chief or his designee shall determine the type, amount and quantity of equipment and personnel required to adequately control, abate and mitigate all technical rescue situations.
- d) Technical rescue shall include, but not be limited to, any or all of the following types of incidents:
  - 1) Confined space incidents;
  - 2) Full or partial structural collapse;
  - 3) Trench cave-in;
  - 4) Vehicle extrications;
  - 5) Other unusual rescue situations.

Section 12-17 through 12-20 Reserved.

Article III

MISCELLANEOUS

Section 12-21 Fire Limits.

- a) The primary fire limits shall be shown on the fire zone map as approved and modified from time to time by the Council. A copy of this map shall be maintained in the fire department.
- b) As provided in G.S. 160A-436, within the primary fire zone no frame or wooden building or structure or addition thereto may be erected, altered, repaired or moved (either into the limits or from one place to another within the limits), except in accordance with a building permit issued by the building inspector and approved by the Commissioner of Insurance.
- c) The Town may seek appropriate relief for violations of this section through actions for abatement or injunctive relief through a court of competent jurisdiction. Failure to obtain proper permitting as described in subsection (b) above is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

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## Section 12-22 Fire Chief.

When used in this chapter, the term “fire chief” refers to the town fire chief or to any other person designated by the Council to perform the duties assigned to the fire chief by this chapter.

## CHAPTER 13

### CEMETERIES

- Section 13-1 Burial Only in Cemeteries
- Section 13-2 Disruptive Activity Prohibited
- Section 13-3 Defacing or Desecration of Public and Private Cemeteries
- Section 13-4 Removing or Defacing Monuments and Tombstones

#### Section 13-1 Burial Only in Cemeteries.

No person may bury or cause to be buried the body of any deceased person within the town limits in any place other than a church cemetery or a cemetery operated by a governmental entity or a private cemetery licensed or specifically excepted from licensing according to the North Carolina Cemetery Act (Article 9 of G.S. Chapter 65). In addition to any other penalties available at law, violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4 by costs of court and a fine greater than \$50.00 but not to exceed \$500.00, except where the application of this local penalty may be prohibited or precluded by law.

#### Section 13-2 Disruptive Activity Prohibited.

- a) No person may drive any motor vehicle or park any motor vehicle in any cemetery except upon the main road and avenues provided therein for vehicular traffic.
- b) No person may drive any motor vehicle or park any motor vehicle in any cemetery unless in attendance at burial services or otherwise engaged in activities consistent with the use of a cemetery as a cemetery.
- c) No person may take any dog, horse, or other animal into any cemetery or allow any animal to run at large therein.
- d) No person may intentionally disrupt any funeral services or disturb the quiet and good of any cemetery by extreme loud or boisterous conduct. Except in the case of military funerals and veterans or military commemorative exercises, no person may carry or discharge firearms in any cemetery.
- e) No person may post or attach any bills, posters, placards, pictures or other form of political or commercial advertising within the cemetery or on the inside or outside of any wall or fence enclosing any cemetery.
- f) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4 by costs of court and a fine greater than \$50.00 but not to exceed \$500.00.

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### Section 13-3 Defacing or Desecration of Public and Private Cemeteries.

As provided in G.S. 14-148(c) persons who deface or desecrate grave sites may be guilty of a felony or misdemeanor. Examples of such acts include:

- (1) Throwing, placing or putting any refuse, garbage or trash in or on any cemetery.
- (2) Taking away, disturbing, vandalizing, destroying or changing the location of any stone, brick, iron or other material or fence enclosing a cemetery without authorization of law or consent of the surviving spouse or next of kin of the deceased.
- (3) Taking away, disturbing, vandalize, destroying, or tampering with any shrubbery, flowers, plants or other articles planted or placed within any cemetery to designate where human remains are interred or to preserve and perpetuate the memory and name of any person, without authorization of law or the consent of the surviving spouse or next of kin.

The provisions of this section shall not apply to:

- (1) Ordinary maintenance and care of a cemetery by the owner, caretaker, or other person acting to facilitate cemetery operations by keeping the cemetery free from accumulated debris or other signs of neglect.
- (2) Conduct that is punishable under G.S. 14-149.
- (3) A professional archaeologist as defined in G.S. 70-28(4) acting pursuant to the provisions of Article 3 of Chapter 70 of the General Statutes.

In addition to any other penalties available at law, violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4 by costs of court and a fine greater than \$50.00 but not to exceed \$500.00, except where the application of this local penalty may be prohibited or precluded by law.

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### Section 13-4 Removing or Defacing Monuments and Tombstones.

Per N.C.G.S. § 14-149, it shall be a Class I felony, without authorization of law or the consent of the surviving spouse or next of kin of the deceased, to knowingly and willfully:

- (1) Open, disturb, destroy, remove, vandalize or desecrate any casket or other repository of any human remains, by any means including plowing under, tearing up, covering over or otherwise obliterating or removing any grave or any portion thereof.
- (2) Take away, disturb, vandalize, destroy, tamper with, or deface any tombstone, headstone, monument, grave marker, grave ornamentation, or grave artifacts erected or placed within any cemetery to designate the place where human remains are interred or to preserve and perpetuate the memory and the name of

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any person. This subdivision shall not apply to the ordinary maintenance and care of a cemetery.

It is a Class H felony, without authorization of law or the consent of the surviving spouse or next of kin of the deceased, to knowingly and willfully disturb, destroy, remove, vandalize, or desecrate any human remains that have been interred in a cemetery

The provisions of this section shall not apply to a professional archaeologist as defined in NCGS 70-28 (4) acting pursuant to the provisions of Article 3 of Chapter 70 of the General Statutes.

In addition to any other penalties available at law, violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4 by costs of court and a fine greater than \$50.00 but not to exceed \$500.00, except where the application of this local penalty may be prohibited or precluded by law.

Section 13-5 Penalties and Remedies.

~~Except as otherwise provided, violations of this Chapter shall be subject to the provisions of Section 1-10.~~

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**CHAPTER 14**  
**Utilities**  
**Sewer Use**

**Article I – General Provisions**

- |              |                               |
|--------------|-------------------------------|
| Section 14-1 | Purpose                       |
| Section 14-2 | Definitions and Abbreviations |
| Section 14-3 | Abbreviations                 |
| Section 14-4 | Reserved                      |

**Article II – Regulations**

- |               |  |
|---------------|--|
| Section 14-5  | Use of Public Sewers Required              |
| Section 14-6  | Private Waste Disposal                     |
| Section 14-7  | Building Sewers and Connections            |
| Section 14-8  | Prohibited Discharges                      |
| Section 14-9  | Federal Categorical Pretreatment Standards |
| Section 14-10 | Specific Pollutant Limitations             |
| Section 14-11 | State Requirements                         |
| Section 14-12 | Town's Right of Revision                   |
| Section 14-13 | Dilution Prohibition                       |
| Section 14-14 | Accidental Discharges                      |

**Article III – Fees**

- |                           |                  |
|---------------------------|------------------|
| Section 14-15             | Purpose          |
| Section 14-16             | User Charges     |
| Section 14-17             | Charges and Fees |
| Sections 14-18 through 19 | Reserved         |

**Article IV – Discharges of Industrial Wastewater**

- |                           |                                 |
|---------------------------|---------------------------------|
| Section 14-20             | Wastewater Dischargers          |
| Section 14-21             | Wastewater Contribution Permits |
| Section 14-22             | Monitoring Facilities           |
| Section 14-23             | Inspection and Sampling         |
| Section 14-24             | Pretreatment                    |
| Section 14-25             | Confidential                    |
| Sections 14-26 through 29 | Reserved                        |

**Article V – Enforcement**

- |               |                         |
|---------------|-------------------------|
| Section 14-30 | Administrative Remedies |
| Section 14-31 | Civil Penalties         |
| Section 14-32 | Judicial Remedies       |
| Section 14-33 | Other Remedies          |
| Section 14-34 | Upset Provisions        |
| Section 14-35 | Severability            |
| Section 14-36 | Conflict                |
| Section 14-37 | Effective Date          |

**Article VI – Water Supply**

- Section 14-38      Introduction
- Section 14-39      Purpose
- Section 14-40      Responsibilities
- Section 14-41      Definitions
- Section 14-42      Water System
- Section 14-43      Facilities that Require Assemblies
- Section 14-44      Policy

**Article VII – Water/Sewer Bill Adjustments**

- Section 14-45      General
- Section 14-46      Leak Allowance
- Section 14-47      Water Meter Malfunction
- Section 14-48      Penalty for Violation of Article
- Section 14-49      Repeal of Conflicting Ordinances
- Section 14-50      Severability
- Section 14-51      Effective Date

**Article VIII – Water/Sewer Billing Ordinance**

- Section 14-52      General
- Section 14-53      Normal Billing Cycles
- Section 14-54      Collection Procedures
- Section 14-55      Delinquent Accounts
- Section 14-56      Tampering with Utility Connections or Appurtenances
- Section 14-57      Deposit Requirements
- Section 14-58      Additional Fees
- Section 14-59      Change of Occupancy
- Section 14-60      Final Bills
- Section 14-61      Suspension of Service
- Section 14-62      Penalty for Violation of Article
- Section 14-63      Repeal of Conflicting Ordinances
- Section 14-64      Severability
- Section 14-65      Effective Date

## ARTICLE I

### GENERAL PROVISIONS

#### Section 14-1 Purpose and Policy.

- a) This Chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the Town of McAdenville, hereinafter referred to as the Town, and enables the Town to comply with all applicable State and Federal laws required by the Clean Water Act of 1977 (33 U.S.C. 1251 *et seq.*) and the General Pretreatment Regulations (40 C.F.R., Part 403).
- b) The objectives of this Chapter are:
  - 1) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
  - 2) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving water or the atmosphere or otherwise be incompatible with the system;
  - 3) To improve the opportunity to recycle and reclaim wastewater and sludge from the system; and
  - 4) To provide for equitable distribution of the costs of the municipal wastewater system.
- c) This Chapter provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.
- d) This Chapter shall apply to all persons within the Town and to those persons outside the Town, who are, by permit or agreement with the Town of otherwise, users of the Town's publicly owned treatment works. Except as otherwise provided herein, the Town Administrator shall administer, implement, and enforce the provisions of this ordinance.

#### Section 14-2 Definitions and Abbreviations.

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

- 1) Act or “the Act”.

The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

2) Administrator.

The person designated by the Town to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this Chapter, or his duly authorized representatives.

3) Approval Authority.

The Director of the Division of Environmental Management of the North Carolina Department of Natural Resources and Community Development.

4) Authorized Representative of an Industrial User.

An authorized representative of an Industrial User may be: (1) A principal executive officer of at least the level of vice-president, if the Industrial User is a corporation; (2) A general partner or proprietor if the Industrial User is a partnership or proprietorship, respectively; (3) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

5) Biochemical Oxygen Demand (BOD).

The quantity of oxygen utilized in the biochemical oxidation of organic matter as determined under standard laboratory procedures performed for five (5) days at twenty (20) degrees Centigrade expressed in terms of weight and concentration in accordance with the latest edition of "Standard Methods for Analysis of Water and Wastewater," published by the, American Public Health Association, American Water Works Association, Water Environment Federation or by the latest edition of "Methods for the Analysis of Water and Wastewater," published by the Environment Protection Agency.

6) Building Sewer.

A sewer conveying wastewater from the premises of a User to the Town sewer system.

7) Categorical Standard.

National Categorical Pretreatment Standard (or Pretreatment Standard).

8) Cooling Water.

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

9) Control Authority.

This term shall refer to the Approval Authority, defined hereinabove; or the administrator if the Town has an approved pretreatment program under the provisions of 40 C. F. R. 403.11.

10) Direct Discharge.

The discharge of treated or untreated wastewater directly to the waters of the State North Carolina.

11) Environmental Protection Agency (EPA).

The U. S. Environmental Protection Agency, or the administrator or other duly authorized official of said agency.

12) Grab Sample.

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

13) Holding Tank Waste.

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

14) Indirect Discharge.

The discharge or the introduction of pollutants from any source including those regulated under section 307 (b) or (c) of the Act, (33 U.S.C. 1317), into the publicly owned treatment works (including holding tank waste discharged into the system.)

15) Industrial User.

A user as defined herein which is also a source of indirect discharge which does not constitute a “discharge of pollutants” under regulations issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

16) Interference.

The inhibition, alteration or disruption of the publicly owned treatment works (POTW) treatment processes or operations which contribute to a violation of any requirement of the Town’s National Pollution Discharge Elimination System Permit. The term includes but is not limited to the prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act (33 U.S.C. 1345) or any criteria, guidelines, or

regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

17) National Categorical Pretreatment Standard or Pretreatment Standard.

Any regulation containing pollutant discharge limits promulgated by the Environment Protection Agency in accordance with Section 307 (b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial user.

18) National Prohibitive Discharge Standard or Prohibitive Discharge Standard.

Any regulation developed under the authority of 307 (b) of the Act and 40 CFR, Section 403.5.

19) New Source.

Any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307 (c) (33 U.S.C. 1317) Categorical Pretreatment Standard which will be applicable to such source, if such standard is thereafter promulgated within one hundred twenty (120) days of proposal in the Federal Register. Where the standard is promulgated later than one hundred twenty (120) days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

20) National Pollution Discharge Elimination System or NPDES Permit.

A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342), or pursuant to G.S. 143-215.1 by the State under delegation from EPA.

21) Person.

Any individual, partnership, co-partnership, firm, company, corporation, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by context.

22) pH.

The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

23) Pollutant.

Any “Waste” as defined in N.C.G.S. 143-213 (13) and dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, or agricultural waste discharged into water.

**24) Pollution.**

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

**25) Pretreatment or Treatment.**

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

**26) Pretreatment Requirements.**

Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

**27) Publicly Owned Treatment Works (POTW).**

A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292) which is owned in this instance by the Town. This is also referred to in this Chapter as the Town’s “system” and by definition includes any pipes, sewers or other conveyances that convey wastewater to the facilities of the Town which provide treatment. For the purpose of this chapter, POTW shall also include any sewers that convey wastewaters to the POTW or system from persons outside the Town who are, by contract or agreement with the Town, users of the Town’s POTW or system.

**28) Publicly Owned Treatment Works (POTW) Treatment Plants.**

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

**29) Shall is mandatory; may is permissive.**

**30) Significant Industrial User.**

Any industrial user of the Town’s wastewater disposal system which (i) has a process wastewater flow of fifty thousand (50,000) gallons or more per average work day, or (ii) contributes more than five percent (5%) of the flow in the Town’s wastewater treatment system, or (iii) is required to meet a National Categorical Pretreatment Standard, or (iv) is found by the Town, the Division of Environmental Management or the U.S.

Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

**31) North American Industry Classification System (NAICS)**

A classification pursuant to the "North American Industry Classification System (NAICS)" issued by the Occupational Safety & Health Administration, January 1, 1993.

**32) Storm Water.**

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

**33) Suspended Solids.**

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

**34) Toxic Pollutant.**

Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provisions of Section 307 (a) of the Act, or other applicable laws, rules or regulations.

**35) User.**

Any person who directly or indirectly introduces, contributes, causes, or permits the contribution of wastewater into the Town's system.

**36) Wastewater.**

The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any other substances which may be present, whether treated or untreated.

**37) Wastewater Contribution Permit.**

The permit which may be pursuant to Section 14-21 of this Chapter.

**38) Waters of the State.**

All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

Section 14-3 Abbreviations. The following abbreviations shall have the designated meanings:

- 1) BOD – Biochemical Oxygen Demand.
- 2) C.F.R – Code of Federal Regulations.
- 3) COD – Chemical Oxygen Demand.
- 4) EPA – Environment Protection Agency.
- 5) l – Liter.
- 6) mg – Milligrams.
- 7) mg/l – Milligrams per liter.
- 8) NPDES – National Pollutant Discharge Elimination System.
- 9) POTW – Publicly Owned Treatment Works.
- 10) SIC – Standard Industrial Classification.
- 11) SWDA – Solid Waste Disposal Act, 42 U.S.C. 6901 et seq.
- 12) U.S.C. – United States Code.
- 13) TSS – Total Suspended Solids.
- 14) TKN – Total Kjeldahl Nitrogen.

Section 14-4 Reserved.

ARTICLE II  
REGULATIONS

Section 14-5 Use of Public Sewers Required.

- a) Unauthorized Deposits.

It shall be unlawful for any person to throw or deposit any material or substance in any public sanitary sewer line that will, in any manner, obstruct such line.

b) Discharge – Natural Outlets.

It shall be unlawful to discharge to any natural outlet within the Town of McAdenville or in any area under the jurisdiction of said Town any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Chapter and with regulations of the Division of Environmental Management, Department of Natural Resources and Community Development of the State.

c) Septic Tank and Other Facilities.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater. (Also see Section 14-6.)

d) Required Connection.

The owner of any houses, buildings or properties used for human occupancy, employment, recreation, or other purposes, situated within the Town and abutting any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the Town, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Chapter, within ninety (90) days after date of official notice to do so, provided that said public sewer is within one hundred fifty (150) feet to the property line.

Section 14-6 Private Wastewater Disposal.

a) Public Sanitary Sewer Not Available.

Where a public sanitary sewer is not available, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article. Before commencement of construction of a private wastewater disposal system the owner(s) shall first obtain permits from the Gaston County Inspection Department (GCID) and Department of Public Health (DPH) and Division of Environmental Management (DEM) of the State. The owner(s) shall provide any plans, specifications and other information as deemed necessary by the GCID, DPH and DEM. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than 20,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet. The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the local government.

b) Public Sanitary Sewer Made Available.

At such time as a public sanitary sewer becomes available to a property served by a private wastewater disposal system, a direct connection shall be made to the public sewer within sixty (60) days. Under unusual and/or special circumstances the local government may waive this provision.

**Section 14-7 Building Sewer and Connections.**

a) **Tapping or Connecting with Sanitary Sewer Mains.**

No person shall make any service lateral tap or make any connection whatsoever, with any sanitary sewer main owned or controlled by the Town, and all such taps and connections shall be made only by the Town or its duly authorized agents or employees.

b) **Service Lateral Tap.**

1) **Application – Fee.**

Any person desiring a service lateral tap to any sanitary sewer main owned or controlled by the Town shall make application to the Town Administrator and shall pay, in advance, to the Town the set fee(s) established by the Town Council, which shall be filed with the Town Administrator, for making such service lateral tap. If a new applicant can find an existing tap and its sewer lateral where an older building exists, the new applicant may use the tap and its sewer lateral along with the buildings lateral if, in the opinion of the Town Administrator, they are in acceptable structural condition and operate satisfactorily.

2) **Separate Connections.**

Excluding industrial plant sites or other sites which have written approval from the Town Administrator for single discharge points, a separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the front building sewer may be extended to the rear building and the whole considered as one building sewer; but the Town does not and will not assume obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

3) **Point of Connection.**

The Town or its duly authorized agents or employees shall install its portion of the sewer lateral from its main sanitary sewer line to the edge of the right-of-way and the owner's property line. All connections to the Town's lateral line shall be made secure and watertight and subject to acceptance by the Town.

4) **Pipes.**

No service shall be installed unless it conforms with the North Carolina State Building Code, Volume II, Plumbing.

5) Excavations.

All excavations for installing service pipes or repairing the same shall be made in compliance with any rules or regulations relating to making excavations in streets. Provided that it shall be unlawful to place any service pipe in the same excavation with, or directly over, any drain or water pipe.

6) Repairs.

It shall be the responsibility of the property owner(s) to keep and maintain the building sewer connected to the public sewer in good repair. The owner(s) shall be responsible for making necessary repairs, at his own expense, to the building sewer when notified in writing by the Town that repairs are necessary. Should the owner fail to repair the building sewer within sixty (60) days after receiving written notification by the Town that such repairs are necessary, the Town may make the necessary repairs to the building sewer and shall assess the owner(s) for the cost of the repairs.

7) Downspouts and Surface Drainage.

No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of infiltration/inflow to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

8) Grease, Oil and Sand Interceptor.

Grease, oil, and sand interceptor sewers shall be provided when, in the opinion of the Town, they are necessary for the proper handling of liquid wastes containing floatable oil in excessive amounts, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Town Administrator, and shall be located as to be readily and easily accessible for cleaning and inspection. Where installed, all grease, oil and sand interceptors shall be maintained by the owner(s) at his expense in continuously efficient operation at all times. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the Town Administrator. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by currently licensed waste disposal firms.

9) Other Prohibited Discharges.

Any unpolluted waters such as infiltration/inflow to any sanitary sewer, including storm water and all other polluted drainage shall be discharged to such sewers as are specifically designed as storm sewers or to a natural outlet approved by the Town Administrator and the Division of Environmental Management (DEM) of the State. Unpolluted industrial cooling water or process waters may be discharged on approval of the Town Administrator and DEM to a storm sewer or natural outlet.

10) Indemnification.

The owner(s) shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer; provided, however, that such indemnification shall not extend to loss of damage due solely to willful misconduct or negligence on the part of the Town.

Section 14-8 Prohibited Discharges.

- a) No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation of performance of the Town's system. The provisions of this section shall apply to all users of the Town's system whether or not the user is subject to National Categorical Pretreatment Standards or any other national, state, or local pretreatment standard or requirement.
- b) A user may not discharge the following substances to any system of the Town:
  - 1) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion which may be injurious in any other way to the Town's system or to the operation of the Town's systems. At no time shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naptha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substance which the Town, the State or EPA has notified the user is a fire hazard to the system.
  - 2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, animal guts or tissues, paunch, manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

- 3) Any wastewater having a pH less than 5.0, unless the Town's system is specifically designed to accommodate such wastewater, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the Town's system.
- 4) Any toxic pollutant or wastewater containing toxic pollutants in sufficient quantity, which, either singly or by interaction with other pollutants, may injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters to the Town's system, or which exceeds the limitation set forth in any Categorical Pretreatment Standard or other Standard.
- 5) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- 6) Any substance which, in the opinion of the administrator, may cause the effluent or any other product of the Town's systems such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the Town's system cause the Town's system to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or any other State criteria applicable to the sludge management method being used.
- 7) Any substance which will cause the Town's system to violate its NDES and/or State Disposal System Permit or the receiving water quality standards.
- 8) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- 9) Any wastewater having a temperature which will inhibit biological activity in the Town's treatment plant resulting in interference as herein defined, but in no case wastewater with a temperature at the point of introduction into the Town's system which is or exceeds forty (40) degrees Centigrade (104 degrees Fahrenheit).
- 10) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the Town's system. In no case shall a sludge load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.
- 11) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the administrator in compliance with applicable state or federal law and regulations.

- 12) Any wastewater which causes a hazard to human life or creates a public nuisance.

Section 14-9 Federal Categorical Pretreatment Standards.

Upon the promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the Federal Standard, if more stringent than limitations imposed under this Chapter for sources in that subcategory shall immediately supersede and become the limitations imposed under this Chapter. The administrator shall notify all affected users of the applicable reporting requirements under 40 C.F.R 403.12. Provided, however, notwithstanding the failure of the administrator to comply with the provisions of this section, it shall remain the continuing responsibility of the user to keep abreast of and to comply with all applicable standards for user's discharge.

Section 14-10 Specific Pollutant Limitations.

Unless authorized by a permit issued under Section 14-21 of this Chapter no person shall discharge wastewater containing pollutants at levels which exceed the levels associated with domestic sewage. For the following parameters exceeding domestic sewage levels shall mean in excess of:

250	mg/l	BOD
250	mg/l	TSS
40	mg/l	TKN
0.050	mg/l	arsenic
0.005	mg/l	cadmium
0.061	mg/l	copper
0.200	mg/l	cyanide
0.049	mg/l	lead
0.002	mg/l	mercury
0.100	mg/l	nickel
0.005	mg/l	silver
0.100	mg/l	total chromium
0.175	mg/l	zinc

Domestic sewage levels for pollutants not listed above shall be determined by the administrator and shall be based on either actually measured local domestic sewage levels or literature values.

Section 14-11 State Requirements.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this Chapter.

Section 14-12 Town's Right of Revision.

The Town reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in Section 14-5.

Section 14-13 Dilution Prohibition.

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant specific limitation developed by the Town or State.

Section 14-14 Accidental Discharges.

- a) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Chapter. Facilities to prevent accidental discharge or prohibited materials shall be provided and maintained at the owners or user's cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Town for review, and shall be approved by the Town before construction of the facility. All existing users shall complete such a plan within 180 days from the date of passage of this Chapter. No user who seeks to begin discharging into the Town's system after the effective date of this Chapter shall be permitted to do so until such accidental discharge procedures have been submitted to and approved by the Town. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this Chapter.
- b) In the case of an accidental discharge, the user shall immediately telephone and notify the administrator of the incident. The modification shall include location of the discharge, type of waste, concentration and volume, and corrective actions.
- c) Within five (5) days following an accidental discharge, the user shall submit to the administrator a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the Town's system, fish kills, or any other damage to person or property; nor shall such modification relieve the user of any fines, civil penalties, or other liability which may be imposed by this Chapter or other applicable law.
- d) Each user shall prominently post a permanent notice advising its employees whom to call in the event of an accidental discharge. Users shall insure that all employees who may cause such an accidental discharge to occur are advised of the emergency notification procedure.

## ARTICLE III

### FEES

#### Section 14-15 Purpose.

It is the purpose of this article to provide for the recovery of costs from users of the Town's wastewater disposal system for the implementation of the program established herein. The applicable charges for fees shall be set forth in the Town's schedule of charges and fees.

#### Section 14-16 User Charge.

A user charge shall be levied on all users including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the Town's system.

- a) The user charge shall reflect at least the cost of debt service, operation and maintenance, including replacement of the Town's system.
- b) Each user shall pay its proportionate cost based on volume of flow.
- c) The administrator shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the Town's system and will make recommendations to the Town Council for adjustments in the schedule of charges and fees as necessary.
- d) Charges for flow to the Town's system not directly attributable to the users shall be distributed among all users of the Town's system based upon the volume of flow of the users, i.e., groundwater or storm water entering the sewer system (inflow/infiltration).

#### Section 14-17 Charges and Fees.

The Town may adopt such charges and fees as it deems necessary and proper which may include:

- 1) Fees for reimbursement of costs of setting up and operating the Town's pretreatment program;
- 2) Fees for administrating, monitoring, inspections, and surveillance procedures;
- 3) Fees for reviewing accidental discharge procedures and construction;
- 4) Fees for permit applications;
- 5) Fees for filing appeals;

- 6) Fees for consistent removal by the Town of pollutants otherwise subject to Federal Pretreatment Standards;
- 7) Other fees as the Town may deem necessary to carry out the requirements contained herein;
- 8) Costs and expenses, including a reasonable attorney's fee, to the Town for any action necessary to enforce this Chapter.

These fees relate solely to the matters covered by this Chapter and are separate from all other fees chargeable by the Town.

Sections 14-18 through 14-19      Reserved.

#### ARTICLE IV

#### DISCHARGE OF INDUSTRIAL WASTEWATER

##### Section 14-20      Wastewater Dischargers.

It shall be unlawful to discharge any wastewater, directly or indirectly, into the waters of this State which flow into or through the Town, or any area under the jurisdiction of the Town or into the Town's system, without first obtaining the permission of the Town of McAdenville.

##### Section 14-21      Wastewater Contribution Permits.

Any person who is now discharging any industrial wastewater into the wastewater disposal system or who desires to discharge any industrial wastewater shall complete an official application and file it with the Town. Approval shall be evidence by written notice of the Town Administrator. Any person now so discharging industrial wastewater shall complete and file an application within 180 days from the date of passage of this Chapter. Any person desiring to commence discharging industrial wastewater after this Chapter becomes effective shall complete and file an application in order to obtain discharge permission from the Town prior to commencing the discharge of such wastes into the wastewater disposal system.

###### a) Significant Industrial User Determination.

All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristic of an existing discharge of non-domestic wastewater shall request from the Town Administrator a Significant Industrial Use determination. If the administrator determines or suspects that the proposed discharge fits the Significant Industrial User criteria he will require that a Significant Industrial User permit application be filed.

###### b) Significant Industrial User Permit Application.

User required to obtain a Significant User Permit shall complete and file with the Town, an application in the form prescribed by the POTW administrator, an accompanied by an application fee in the amount prescribed in the Schedule of Charges and Fees. Significant Industrial Users shall apply for a Significant Industrial User Permit within ninety (90) days after notification of the POTW administrator's determination in Section 14-21 (a) above. In support of the application, the user shall submit, in units and terms as may be required by the administrator, the following information:

- 1) Name, address, and location (if different from the address);
- 2) NAICS number according to Occupational Safety & Hazard Administration, January 1, 1993, as amended;
- 3) Analytical data on wastewater constituents and characteristics including but not limited to those mentioned in Section 14-10 of this Chapter and any of the priority pollutants which the applicant knows or suspects are present in the discharge as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304 (g) of the Act and contained in 40 CFR, Part 136, as amended;
- 4) Time and duration of contribution;
- 5) Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
- 6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewer connections, and appurtenances by the size, location and elevation;
- 7) Description of activities, facilities and plan processes on the premises including all materials which are or could be discharged;
- 8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any Town, State, and Federal Pretreatment Standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required for the User to meet applicable Pretreatment Standards;
- 9) If additional pretreatment and/or O&M will be required to meet with Pretreatment Standards, the shortest schedule by which the user will provide such additional pretreatment;
- 10) Each product produced by type, amount, process or processes and rate of production;
- 11) Type and amount of raw materials processes (average and maximum per day);

- 12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
- 13) Any other information as may be deemed by the POTW administrator to be necessary to evaluate the permit application. The Town will evaluate the data furnished by the user and may require additional information. After final evaluation and acceptance of the data furnished, the Town may issue a wastewater contribution permit subject to terms and conditions provided herein.

c) Permit Modifications.

- 1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as follows:
  - i. Modifications of the monitoring program contained in the permit;
  - ii. Changes in the ownership of the discharge when no other change in the permit is indicated;
  - iii. A single modification of any compliance schedule not in excess of four months; or
  - iv. Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.

Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

- 2) Within nine (9) months of the promulgation of a National Categorical Pretreatment Standard, the Wastewater Contribution Permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a Wastewater Contribution Permit as required by 14-21, the user shall apply for a Wastewater Contribution Permit within 180 days after the promulgation of the Applicable National Categorical Pretreatment Standard.
- 3) A request for a modification by the permittee shall constitute a waiver of the 60 day notice required by G.S. 143-215.1 (b) for modifications.

d) Permit Conditions.

The Town's POTW administrator shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this ordinance and N.C.G.S. 143-215.1. Such conditions shall include but are not limited to the following:

- 1) a Statement of duration (in no case more than five years);

- 2) a Statement of non-transferability;
- 3) applicable effluent limits based on categorical standards or local limits or both;
- 4) applicable monitoring and reporting requirements;
- 5) notification requirements for slug discharges as defined by 40 CFR Part 403.5 (b) a; and
- 6) A Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements.

e) Permit Duration.

Permits shall be issued for a specific time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit.

f) Permit Transfer.

Wastewater Discharge Permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or new or changed operation.

Section 14-22 Monitoring Facilities.

- a) The user shall provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the Town may, when such a location would be impractical or cause undue hardship on the User, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
- b) The user shall provide an area sufficient in the opinion of the administrator in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.
- c) The sampling and monitoring facilities shall be provided by the user in accordance with the Town's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the Town.

Section 14-23 Inspection and Sampling.

The Town shall inspect the facilities of any user to ascertain whether the purposes of this Chapter are being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the Town or its representative immediate access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of the duties of said representative. The Town, the State, the approval authority and the EPA shall have the right to place on the user's property such devices as any such government or agency deems necessary to conduct sampling, inspection, compliance monitoring, and metering operations or any one or more of them. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with its security guards so that upon presentation of suitable identification, personnel from the Town, approval authority and the EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

Section 14-24 Pretreatment.

- a) Users shall provide necessary wastewater treatment as required to comply with this Chapter and shall achieve compliance with all Federal Categorical Pretreatment Standards within the time limitations as specified by the Federal Pretreatment Regulations and this Chapter. Any facilities required to pretreat wastewater to a level acceptable to the Town shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Town for review, and must be approved by the Town before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Town under the provisions of this Chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the Town prior to the user's initiation of the changes.
- b) The Town shall annually publish by legal advertisement a list of the users which were not in compliance with any pretreatment requirement or standard at least once during the previous twelve (12) months. The notification shall also summarize any enforcement actions taken against the user(s) during the same twelve (12) months.
- c) All records relating to compliance with pretreatment standards shall be made available to officials of the EPA, the approval authority, and the State upon request.

Section 14-25 Confidential Information.

- a) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Town that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user.

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  - b) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon request to governmental agencies for uses related to this Chapter, the National Pollutant Discharge Elimination System (NPDES) Permit, the State Disposal System permit or the Pretreatment Programs; provided, however, that such portions of a report shall be available to the user by the State or any State agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.
  - c) Information accepted by the Town as confidential shall not be transmitted to any governmental agency or to the general public by the Town until and unless a ten (10) day notification is given to the user.

d) —

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## ARTICLE V

### ENFORCEMENT

#### Section 14-30 Administrative Remedies.

##### a) Notification of Violation.

Whenever the Town's POTW administrator finds that any industrial user has violated or is violating this Chapter, wastewater contributor permit, or any prohibition, limitation or requirement contained herein, the administrator may serve upon such person a written notice stating the nature of the violation. Within 30 days from the date of this notice, a plan for the satisfactory correction thereof shall be submitted to the Town by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the Notice of Violation.

##### b) Consent Orders.

The POTW administrator is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to Section 14-30-(d) below.

##### c) Show Cause Hearing.

- 1) The POTW administrator may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this Chapter, or is in noncompliance with a wastewater contributor permit to show cause why a proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.
- 2) The Council may itself conduct the hearing and take the evidence, or may designate any of its members to any officer or employee of the Town to:

- i) Issue in the name of the Council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.
  - ii) Take the evidence;
  - iii) Transmit a report containing his findings based upon the evidence introduced at the hearing, including such transcripts.
- 3) At any hearing held pursuant to this section testimony taken must be under oath.
- 4) After the Council has reviewed the findings from the hearing, it may issue an order to the user responsible for the discharge providing for continuous monitoring in the discretion of the administrator and directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances as the Town deems appropriate shall have been installed on existing treatment facilities, and unless all such devices or other related appurtenances are properly operated. The Council may issue such other orders and directives as are necessary and appropriate to insure compliance by the user.

d) Administrative Orders.

When the POTW administrator finds that a discharge violates the prohibitions or effluent limitations of this ordinance, or those contained in any permit issued hereunder, the POTW administrator may issue an order to cease and desist, and direct those persons in noncompliance to:

- 1) Comply forthwith,
- 2) Comply in accordance with a compliance time schedule set forth in the order, or
- 3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation.

3)

e) Emergency Suspensions.

- 1) The POTW administrator may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES permit.
- 2) Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing

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will be held within 15 days of the Notice of Suspension to determine whether the suspension may be lifted or the user's waste discharge permit be terminated. In the event of a failure of the person to comply voluntarily with the suspension order, the POTW administrator shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The POTW administrator shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the POTW administrator prior to the date of the above described hearing.

f) Termination of Permit.

Any user, who violated the following conditions of this ordinance, or applicable State and Federal regulations, is subject to having its permit terminated:

- 1) Failure to factually report the wastewater constituents and characteristics of its discharge;
- 2) Failure to report significant changes in operations, or wastewater constituents and characteristics;
- 3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
- 4) Violation of conditions of the permit.

Section 14-31 Civil Penalties.

Any user who is found to have failed to comply with any provision of this Chapter, or the orders, rules, regulations and permits issued hereunder, shall be fined up to one thousand dollars (\$1,000) for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. Such assessments may be added to the user's next schedule sewer service charges and the POTW administrator shall have such remedies for the collection of such assessments as it has for collection of other service charges.

Section 14-32 Judicial Remedies.

If any person discharges sewage, industrial wastes or other wastes into the wastewater disposal system contrary to the provisions of this Article or any order or permit issued hereunder, the POTW administrator, through the Town Attorney, may commence an action for appropriate legal and/or equitable relief in the General Court of Justice for Gaston County.

a) Criminal Violations.

Any user who is found to have failed to comply with any provisions of this Chapter, or the orders, rules, regulations and permits issued hereunder, shall be, upon conviction, guilty of

a misdemeanor, punishable by a fine of greater than \$50.00 but not to exceed \$500.00, or imprisonment, or both, as provided in N.C.G.S. § 14-4.

Any user who is found to have failed to comply with any provisions of this Chapter, or the orders, rules, regulations and permits issued hereunder, shall be, upon conviction, guilty of a misdemeanor, punishable by a fine of greater than \$50.00 but not to exceed \$500.00, or imprisonment, or both, as provided in N.C.G.S. § 14-4.

b) Penalties for Falsifying Information.

Any person who knowingly makes any false statements, representations or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this Chapter, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Chapter, shall be, upon conviction, guilty of a misdemeanor, punishable by a fine of greater than \$50.00 but not to exceed \$500.00, or imprisonment, or both, as provided in N.C.G.S. § 14-4.be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than six (6) months, or by both.

c) Injunctive Relief.

Whenever an industrial user is in violation of the provisions of this ordinance or an order or permit issued hereunder, the POTW administrator, through the Town Attorney, may petition the General Court of Justice for the issuance of a preliminary or permanent injunction, or both as may be appropriate, which restrains or compels the activities in question. In the event the POTW chooses to correct the violation itself, the cost of such correction may be added to the next scheduled sewer service charge payable by the person(s) causing the violation. The POTW shall have such remedies for the collection of such costs as it has for the collection of other sewer charges.

d) Remedies Not Exclusive

The remedies provided in this Section for violations of this Chapter are not exclusive, and except as may be prohibited by law, may be applied in addition or in the alternative to any other or further penalties imposed by statute.

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Section 14-33 Other Remedies.

a) Annual Publication of Reportable Noncompliance.

At least annually, the POTW administrator will publish in the largest daily newspaper circulated in the service area, a list of those industrial users which are found to be in significant violation, as defined by Section .0903 (b) (10) of NRCD rules, with this Chapter or any order or permit issued hereunder, during the 12 months since the previous publication.

b) Water Supply Severance.

Whenever an industrial user is in violation of the provisions of this Chapter or an order or permit issued hereunder, water services to the industrial user, if provided by the Town, may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated consistent compliance.

c) Public Nuisances.

Any violation of the prohibitions or effluent limitations of this Chapter or contained in a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the POTW administrator. Any person(s) creating a public nuisance shall be subject to the provisions of the Town's nuisance ordinance, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

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Section 14-34 Upset Provision.

Any discharge which experiences an upset in operations which places the dischargers in a temporary state of noncompliance with this Chapter shall inform the POTW administrator thereof immediately following first awareness of the commencement of the upset. Where such information is given orally, a written follow-up report thereof shall be filed by the discharger within five (5) days. The report shall specify:

- a) Description of the upset, the cause thereof and the upset's expected impact on the discharger's compliance status;
- b) Duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance is continuing, the time by which compliance is reasonably expected to occur;
- c) All steps taken or to be taken to reduce, eliminate and prevent recurrence of such an upset or other conditions of noncompliance.

A documented and verified operating upset, demonstrated as required by 40 CFR 403.16 (c) shall constitute an affirmative defense to any enforcement action brought by the POTW administrator against the discharger for any noncompliance with this Chapter, or an order or permit issued hereunder, which arises out of violations alleged to have occurred during the period of the upset.

Section 14-35 Severability.

If any provision, paragraph, word, section, or article of this Chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

Section 14-36      Conflict.

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this Chapter are hereby repealed to the extent of such inconsistency or conflict.

Section 14-37      Effective Date.

This Chapter shall be in full force and effect on the 9<sup>th</sup> day of February, 1993.

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## **ARTICLE VI**

### **WATER SUPPLY**

#### **Section 14-38 Introduction**

This regulation shall apply to all users connected to the Town of McAdenville Public Water Supply system. This regulation complies with the Federal Safe Drinking Water Act (P.L. 93-523), the North Carolina State Administrative Code (Title 15A, Subchapter 8C, and the North Carolina State Building Code (Volume II) as they pertain to cross connections with the public water supply.

#### **Section 14-39 Purpose**

The purpose of this regulation is:

- a. To define the Town of McAdenville as the Water Purveyor in the elimination of all cross connections within the Public Water Supply system; and
- b. To protect the Public Water Supply system of the Town of McAdenville from the possibility of contamination or pollution by isolation within the customers' internal potable water distribution system(s), or the customers' private water supply system(s), such contaminants or pollutants which could backflow into the Public Water Supply system of McAdenville; and
- c. To promote the elimination or control of existing cross connections, actual or potential, direct or indirect, between the Town of McAdenville customer potable water supply system(s) and non-potable water supply systems, plumbing fixtures, industrial piping systems; and
- d. To provide a continuing inspection program of cross connection control; which will systematically and effectively prevent contamination or pollution of the Public Water Supply System.

#### **Section 14-40 Responsibility**

The Town of McAdenville endeavors to protect its Public Water Supply system(s) from contamination or pollution due to the backflow of contaminants or pollutants through the water service connection. If the Town of McAdenville requires an approved backflow prevention assembly(s) to protect the potable water supply distribution system, the Town will give notice to the customer to install an approved backflow prevention assembly(s). If the assembly(s) is not installed as required by the Town, the potable water service shall be disconnected until such assembly(s) has been properly installed and inspected.

#### **Section 14-41 Definitions:**

- a. Air Gap (AG). The unobstructed, vertical, physical separation between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other vessel and the flood level rim of said receiving vessel. An approved air gap shall be at least double the diameter of the supply pipe, as measured vertically above the overflow rim of the vessel. In no case shall the air gap be less than 1 inch.
- b. Approved. Acceptance by the Town of McAdenville as meeting applicable specification(s) stated or cited in this regulation, or as suitable for the proposed use.

- c. Auxiliary water supply. Any water supply on or available to the customer's premises other than the Town of McAdenville approved public water supply.
- d. Backflow. The reversal of the normal direction of flow of water caused by either backpressure or backsiphonage.
- e. Backpressure. A condition that occurs when the customer water system pressure exceeds the Water Purveyor's system pressure. This can occur through an increase in the downstream pressure, a decrease in the Water Purveyor's system pressure or a combination of both. Increases in the customer's water pressure above the Water Purveyor's system pressure can be created by booster pumps, temperature increases (e.g., in a boiler or through thermal expansion in a water heater), head pressure caused by elevation, etc.
- f. Backsiphonage. Backflow caused by negative or reduced pressure in the water supply piping. Backsiphonage occurs when the supply line pressure falls below atmospheric pressure (14.7psi). Decreases in the pressure of the Water Purveyor's potable water supply distribution system can be caused by fire fighting, flushing of water mains, a break in the water main, water mains being shut down for inspection and maintenance, etc.
- g. Backflow Preventer. An assembly or means designed to prevent backflow.
- h. Certified Tester. An individual who has current certification through the State of North Carolina Water Treatment Facility Operators Board of Certification as a cross-connection system operator and is competent to test and repair backflow prevention assemblies as required by the Town of McAdenville.
- i. Contaminant. An impairment of the quality of the potable water supply which creates an actual or potential hazard to the public health through the introduction of hazardous or toxic substances or waterborne health hazards in the form of physical or chemical contaminants or biological organisms and pathogens.
- j. Containment. Preventing the impairment of the potable water supply by installing an approved backflow prevention assembly(s) at the service connection.
- k. Cross Connection. Any actual or potential connection, link or structural arrangement, direct or indirect, between the Water Purveyor's potable water supply system and any other source or system through which it is possible to introduce into any part of the potable water supply system any substance other than the potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel or change-over devices and other temporary or permanent devices through which or because of which backflow can or may occur are considered to be cross connections.
- l. Cross Connection Controlled. A water service connection between a potable water system and a non-potable water system with an approved backflow prevention assembly(s) properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.
- m. Customer. Any person, firm or corporation responsible for any property at which potable water from the Town of McAdenville is received. In the absence of other parties or the failure of other persons to accept the responsibilities herein set forth, the owner of the private water system or property owner shall be ultimately responsible.
- n. Double Check Valve Assembly (DCVA). An assembly consisting of two(2) independently operating spring loaded check valves with full flow characteristic resilient seated shut-off valves on each side of the check valves, plus four(4) properly located resilient seated test cocks for the testing of each check valve. The entire assembly shall

meet the design and performance specifications as determined by the Foundation for Cross Connection Control and Hydraulic Research, University of Southern California. To be approved by the Town of McAdenville, these assemblies shall be readily accessible for in-line maintenance and testing, and shall be installed horizontally, unless specifically approved for vertical installation by the Town.

- o. Double Check Detector Assembly (DCDA). A specially designed assembly composed of a line size approved (DCVA) with a specific bypass water meter and a meter sized approved (DCVA). This assembly shall be used to protect against a moderate hazard.
- p. Hazard, Degree of. The potential risk to public health and the adverse side effects of the hazard upon the public potable water distribution system as determined by the Town of McAdenville.
  - 1. Moderate Hazard. An actual or potential threat of pollution or other adverse effects to the physical properties of the Water Purveyor's or the Customer's potable water system.
  - 2. Severe Hazard. An actual or potential threat of contamination of a physical or toxic nature to the Water Purveyor's potable water system or to a Customer's potable water system that could cause a danger to health, serious illness or death.
- q. Isolation. The act of confining a localized hazard at the source of the said hazard within a plumbing or distribution system by installing an approved backflow prevention assembly(s).
- r. Point of service. The point of service will generally be at the property line of the Customer, adjacent to the public right-of-way where the Town of McAdenville potable water supply mains are located or at a point on the Customer's property where the water meter is located.
- s. Pollution. An impairment of the quality of the potable water to a degree that does not create a hazard to the public health but which does adversely and unreasonably affect the aesthetic qualities of such water.
- t. Process Water. Water that goes through various procedures in the making or treatment of a product.
- u. Pressure Vacuum Breaker (PVB). An assembly approved for residential lawn sprinkler irrigation systems consisting of a spring loaded air-inlet valve and a spring loaded check valve, with full flow characteristic resilient seated shut-off valves, one on the inlet and one on the outlet side of the PVB, plus two(2) properly located resilient seated test cocks for testing the assembly. The entire assembly shall meet the design and performance specifications as determined by The Foundation for Cross Connection Control and Hydraulic Research, University of Southern California. It cannot be subjected to backpressure of any kind and shall be installed at least twelve (12) inches above the highest irrigation head and/or downstream piping. Chemigation or aspiration of any herbicide, pesticide, fungicide, or fertilizer is not permitted for use with a PVB. To be approved by the Town of McAdenville, these assemblies shall be readily accessible for in-line maintenance and testing, and shall be installed vertically in a location where no part of the assembly will be submerged.
- v. Public Water Supply System. The potable water system(s) owned and operated by the Town of McAdenville identified with a Town Identification number(s) issued by the

- North Carolina Public Water Supply Section of Environmental Health. This system(s) includes all distribution mains, lines, pipes, connections, storage tanks and other facilities conveying potable water from the source provider to the service connection of each customer.
- w. Reduced Pressure Principle Assembly (RP). An assembly consisting of two (2) independently operating spring loaded check valves with a hydraulically operating, spring loaded mechanical differential pressure relief valve located between the check valves and at the same time lower than the first check valve. The assembly shall include four (4) properly located resilient seated test cocks and full flow characteristic resilient seated shut-off valves at each end of the assembly. The entire assembly shall meet the design and performance specifications as determined by The Foundation for Cross Connection Control and Hydraulic Research, University of Southern California (FCCCHRUSC). To be approved by the Public Works Department, these assemblies shall meet all testable criteria established by (FCCCHRUSC), readily accessible for in-line maintenance and testing, and installed horizontally, in a location where no part of the assembly will be submerged.
  - x. Service Connection. A piping connection between the Water Purveyor public water system and a Customer's system.
  - y. Water, Potable and Non-Potable Potable water is water that has been approved for human consumption by the appropriate agency(s) of the State of North Carolina. Non-Potable water is water that is not approved for human consumption.
  - z. Water Purveyor. The owner or operator of the public water supply system.

#### Section 14-42 Water System.

The water system shall be considered as made up of two parts; the Town of McAdenville water system and the Customer system. The Town of McAdenville system shall include all those facilities of the water system under the complete control of the Town of McAdenville, up to the point where the Customer service begins. The distribution system shall include the network of conduits used for the delivery of potable water from the source supplier to the Customer's system.

#### Section 14-43 Facilities That Require Assemblies

Any customer either operating or planning to operate facilities identified by the Town of McAdenville as having a potential for backflow into the Town public water supply system, shall install an approved backflow assembly(s) on all such service connections according to the degree of hazard present. The following facilities having been identified by the Town of McAdenville as having a potential for backflow and require backflow prevention assemblies as indicated:

Automotive Service Station / Dealerships

- 1. Moderate hazard -----DCVA
- 2. Severe hazard(e.g.wash-pits,hydraulic equipment)-----RP

Beauty Shops / Barber

- 1. Moderate hazard(e.g.Hair style only)-----DCVA
- 2. Severe hazard(e.g. chemical treatments) ----- RP

Church Baptismal -----DCVA

Commercial automotive washing facilities -----RP

Dye Works -----RP

Fire systems----- DCDA / RPDA

Funeral Homes-----	RP
Medical Clinics-----	RP
Multi-story structures, 3 to 4 stories -----	DCVA
Nursing/assisted living/convalescent homes-----	RP
Lawn Irrigation systems-----	PVB / RP
Restaurants -----	DCVA
Schools	
1. Moderate hazard -----	DCVA
2. Severe hazard -----	RP
Swimming Pools -----	RP
Waterfront Commercial Facilities (all)-----	RP

Other types of facilities not listed may be required to install approved backflow assemblies if determined necessary by the Town of McAdenville.

Approved backflow prevention assemblies shall be installed on the customer system at the point of service to any facility that the Town has identified as having a potential for backflow.

#### Section 14-44 Policy

When it has been determined by the Town of McAdenville that a requested service requires the installation of a backflow prevention assembly, the customer shall, prior to receiving such service, submit for review and approval, plans and specifications of the proposed facilities to the Town. The submittal shall include a description of proposed processes, operations, etc., in such detail as needed to evaluate potential effects on the Town public water supply system(s).

Proposed assemblies shall be identified by size, manufacturer and model number or by specification.

When it has been determined by the Town of McAdenville that an existing service may require the installation of a backflow prevention assembly, the customer shall submit to the Town for review such information as may be necessary to evaluate the potential for undesirable effects on its system. Upon notification to the customer by the Town that a backflow prevention assembly(s) is necessary, customer shall submit plans and specifications for approval and install or cause to be installed entirely at the customer's expense such assembly(s) as may be necessary. If it has been determined by the Town that an imminent health hazard exists, then the potable water service shall be terminated until such backflow prevention assembly(s) are installed.

Existing facilities which pose a potential severe hazard to the public water system shall install a reduced pressure principle backflow prevention assembly(s) at the point of service within sixty (60) days of notification by the Town.

All existing industrial and commercial facilities that have or may have an actual or potential cross connection, that are not identified as a "severe hazard" shall be considered moderate hazard facilities. All existing moderate hazard facilities shall install or cause to be installed a double check valve backflow prevention assembly(s) at the point of service within sixty (60) days of notification by the Town of McAdenville.

When required, an approved backflow prevention assembly(s) shall be installed on each service line to a customer's water system in accordance with the requirements of the Town of McAdenville.

Reduced pressure principle assemblies shall be installed at the point of service in a horizontal position and in a location in which no portion of the assembly will be submerged under any circumstance or be subjected to temperatures below freezing. Pit and/or below grade installations are prohibited. An RP shall be installed in accordance with design specifications of the Foundation for Cross Connection Control and Hydraulic Research, University of Southern California.

Double check valve assemblies shall be installed at the point of service in drainage pits wherever below ground installation is necessary. DCVA's may be installed in a vertical position with prior approval from the Public Works Department. In all such cases installation shall be in accordance with detail specifications of the Foundation of Cross Connection Control and Hydraulic Research, University of Southern California.

Pressure vacuum breaker assemblies shall be installed a minimum of twelve (12) inches above the highest outlet (sprinkler head) prior to any branching of the customer's water system. PVB assemblies shall be installed in accordance with detail specifications of the Foundation for Cross Connection Control and Hydraulic Research, University of Southern California

All backflow prevention assemblies shall be installed such that the periodic testing and necessary repairs can be conveniently performed by the Town of McAdenville approved backflow tester(s). No water service shall be provided to any facility or service that requires the installation of a backflow prevention assembly(s) until the installed assembly(s) has passed the test performed by a certified tester, and the test results have been received by the Town. Testing of all backflow prevention assembly(s) shall be performed by a certified tester. All backflow prevention Assembly testers shall submit a copy of their State certification, including certification number(s) to the Town, and be approved, prior to testing any backflow prevention assembly(s) connected to the Town of McAdenville public water supply system. All equipment used to test backflow prevention assembly(s) shall be properly maintained and calibrated annually in accordance with the manufacturer's guidelines. A copy of the calibration certificate shall be submitted to the Town. Such tests shall be conducted upon installation prior to receiving service, and annually thereafter. A record of all testing and repairs is to be retained by the customer. Copies of the results shall be provided to the Town within ten (10) business days after the completion of any testing and/or repair work. Submission of falsified test results or material that is incomplete in any manner by a certified tester will result in the tester being permanently removed from the Town approved tester list. Only original manufactured parts may be used to repair an assembly. Ownership, testing, and maintenance of the assembly(s) shall be the sole responsibility of the customer or property owner. Installation of all backflow prevention assembly(s) shall be the customer's responsibility. Assembly(s) shall be installed downstream of the meter, at the point of service or at a location approved by the Town. No person shall

connect a hose to a fire hydrant unless an approved backflow prevention assembly(s) is connected to the hydrant, unless otherwise approved by the Town or its designee. No DCVA will be permitted for use on a fire hydrant without the approval of the Town or its designee.

Removal of an approved backflow prevention assembly(s) from a service connection that has been deemed a hazard by the Public Town shall result in immediate disconnection from the Town of McAdenville public water supply system.

Any facility or customer found to be in noncompliance with the provisions of these regulations and/or that neglect to correct a violation shall have their water service terminated. The customer's system shall be open for inspection at all reasonable times to Town of McAdenville personnel to determine whether cross connections or other structural or sanitary hazards, including violations of these regulations, exist. Should an inspection of the premise be refused, the Town reserves the right to install or cause to be installed, at the customer's expense, a reduced pressure principle assembly(s) downstream of the water meter. The Town will bill the customer or property owner all costs associated with the installation of the backflow prevention assembly(s) and associated structural items plus an additional 50% surcharge.

## **ARTICLE VII**

### **WATER/SEWER BILL ADJUSTMENTS**

#### Section 14-45 General

This ordinance establishes general guidelines and procedures to be used for water/sewer customers who (1) experience a water leak or break due to no reasonable fault of their own, or (2) suspect there is inaccuracy with their water meter.

#### Section 14-46 Leak Allowance

The Town of McAdenville will consider an adjustment to a customer's water bill only if the customer develops a leak or a break due to no negligence of the customer.

Adjustments may be made when the water volume lost is 2,500 or more gallons higher than the average monthly consumption for the account. The adjustment will be for one half of the excess over the qualifying average plus 2,500 gallons.

A similar adjustment will be made on a sewer account when the leak flows into the public sewer system. If the leak does not flow into the public sewer system, the sewer adjustment will be for 100% of the excess over the qualifying average plus 2,500 gallons. The customer must produce receipts verifying the repair of the leak (e.g. plumber's bill or replacement material receipt). **ONLY ONE ADJUSTMENT MAY BE MADE DURING A 12-MONTH PERIOD.**

There are no water adjustments made for filling swimming pools. A sewer adjustment may be made only if the pool does not drain into McAdenville's sewer system.

#### Section 14-47 Water Meter Malfunction

At the resident's request, the Town will have a water meter checked if the resident feels that his/her meter is malfunctioning. If it is determined that the water meter is not working properly, the resident will receive a new meter installed at no charge. If the meter is deemed 100% accurate, the resident will be responsible for a \$50 charge for the test, which will be added to his/her next water bill; the meter will be reinstalled.

#### Section 14-48 Penalty for Violation of Article

Any violation of the provisions of this article shall constitute a Class 3 misdemeanor punishable upon conviction, as provided in G.S. 160A-175 and G.S. 14-4. The penalty for such violation shall subject the violator to a fine of not less than fifty dollars (\$50) and not more than five hundred dollars (\$500) or as amended.

#### Section 14-49 Repeal of Conflicting Ordinances

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

#### Section 14-50 Severability

If any section, subsection, paragraph, sentence, clause, phrase, or portion of this ordinance if for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

#### Section 14-51 Effective Date

The ordinance shall be in full force and effect from and after the date of adoption and/or amendment.

**Adopted this 13<sup>th</sup> day of August, 2013.**

## **ARTICLE VIII**

### **WATER/SEWER BILLING ORDINANCE**

#### Section 14-52 General

North Carolina State Statute 160A-312 grants municipalities the power to regulate certain utilities. The Town of McAdenville maintains and operates a purchase water system. The Town purchases water from the City of Gastonia which draws and treats water from the Mountain Island Lake.

The McAdenville Town Council is authorized to make changes in rates for water/sewer service, deposit requirements, tapping fees, and system development charges as necessary.

All owners and/or occupants are required to tap into the water and sewer system when available and pay all applicable tap and development fees as established by Town Council annually.

#### Section 14-53 Normal Billing Cycles

The Town of McAdenville bills for water/sewer services on a monthly basis. Water meters are read during the last part of the month. Bills are prepared and mailed no later than the 15<sup>th</sup> day of the following month and done so in accordance with the Town's published rate schedule then in effect and will be based on the amount consumed for the period covered by the meter readings. The due date for water/sewer bills shall be the 8<sup>th</sup> day of the month after which the bills are mailed. If payment is not received at the McAdenville Town office by 4:30 p.m. on the due date of the 8<sup>th</sup>, a late payment charge of 10% of the total balance will be added to the account the first day after the due date.

Failure to receive bills or notices shall not prevent such bills from becoming delinquent or relieve the consumer from payment.

Charges for service commences when the meter is installed and connection is made, whether used or not. Sixty days may be allowed for hookup on initial installation of the water system. For the unmetered properties at the date of the execution of this document, 12 months will be allowed to bring such property into compliance. After which the Town will cap the water lines to all unmetered properties and charge the property owners for the expenses incurred.

#### Section 14-54 Collection Procedure

Customers have three methods available to pay McAdenville water/sewer bills.

- 1) Customer may mail their payment to the Town office (address is furnished on the bill).
- 2) Customer may make their payment in person at the McAdenville Town office during normal operating hours.
- 3) Customers may place their payment in the Town office front door mail slot after normal operating hours.

#### Section 14-55 Delinquent Accounts

The following procedures apply to delinquent accounts.

- 1) Once an account is past due, the customer will be mailed a notice the following month indicating the account is past due and the date service will be disconnected if payment is not received.
- 2) Failure to receive the water/sewer bill does not excuse the customer's responsibility for timely payment or prevent service disconnection.
- 3) A service disconnect request is issued for the delinquent account at the scheduled date and time for service disconnection. Once disconnected, the customer will face reconnection charges of \$50.00 plus all outstanding amounts due. NOTE: The Town assumes no liability for any customer equipment, such as water heaters, which may be damaged when water is disconnected.

The Town Administrator is responsible for the enforcement of this ordinance, but Town Council reserves the right to waive fees/charges due to justifiable hardships. Any customer's request for waiver must be submitted in writing.

#### Section 14-56 Tampering with Utility Connections or Appurtenances

It shall be unlawful for any person to purposely cut on, cut off, tamper with, or damage any meter, meter box, utility connection, or appurtenance, or to interfere with any meter, meter box, utility connection, or appurtenance owned by the Town.

#### Section 14-57 Deposit Requirements

- 1) There is a \$50.00 deposit required for each service provided for all residential property.
- 2) All applicants of service are required to pay a deposit to the Town prior to receiving water/sewer service unless the water/sewer service remains in the property owner's name and a previous deposit is on file. If the water/sewer account remains in the property owner's name, the property owner will be responsible for all bills and water/sewer service, reconnections, late fees, etc. for the residence. Deposits are refundable upon service termination if the water/sewer account is paid in full. If monies are owed to the Town, such monies will be subtracted from the deposit and the remaining balance will be refunded. If final payment owed exceeds the deposit amount, the customer will be responsible for any balance due. No interest will be paid on the deposit.
- 3) All commercial customers are required to pay a deposit to the Town based on an estimated three months usage. A commercial customer's deposit is refundable if termination of service is requested and the water/sewer account is paid in full. If monies are owed to the Town, such monies will be subtracted from the deposit and the remaining balance will be refunded to the commercial customer. If final payment owed exceeds the

deposit amount the commercial customer is responsible for any balance due. No interest will be paid on the deposit.

#### Section 14-58 Additional Fees

Prompt action will be taken to collect sufficient funds for any check payment returned to the Town offices for any reason. Also, the Town will charge a service fee equal to \$30 for all checks returned due to insufficient funds or any other reason. Once a water/sewer customer has two bad check payments returned for any reason, the customer will be placed on a cash or money order only basis for service.

#### Section 14-59 Change of Occupancy

Not less than seven days' notice must be given in person or in writing, at the Town office to discontinue service for a change in occupancy.

The outgoing party shall be responsible for all water consumed up to the time of departure of the time specified for departure, whichever period is greater.

#### Section 14-60 Final Bills

- 1) Once a customer requests termination of service out of his/her name, a final bill is processed.
- 2) The account of a customer, whose final bill remains delinquent after 120 days from the final bill date, will be reviewed by the Town Administrator to determine if collection procedures should be continued or a recommendation be presented to the Town Council that the account be "written/charged off".
- 3) Notes of all activity are entered in the comments of each delinquent account. A record will be maintained on any customer whose account balance is written/charged off. The customer will be required to pay that final bill should he/she ever apply for water sewer service at any address within the Town.
- 4) Overpayments on final bills are refunded to the customer. If a current address cannot be verified, and the refund is less than \$5.00 the balance is to be "written/charged off".
- 5) Underpayments of less than \$5.00 on final bills are written/charged off 60 days after the final bill is processed if payment is not received.

#### Section 14-61 Suspension of Service

The Town reserves the right to discontinue service without notice for the following additional reasons:

- 1) To prevent fraud or abuse.

- 2) Willful disregard of the Town's rules and regulations by the consumer.
- 3) Emergency repairs.
- 4) Insufficiency of supply due to circumstances beyond the Town's control.
- 5) Legal processes.
- 6) Direction of public authorities.
- 7) Strike, riot, fire, flood, accident, or any unavoidable causes.

The Town may, in addition to prosecution by law, permanently refuse service to any consumer who tampers with a meter or other measuring device.

#### Section 14-62 Penalty for Violation of Article

Any violation of the provision of this article shall constitute a Class 3 misdemeanor punishable, upon conviction, as provided in G.S. 160A-175 and G.S. 14-4. The penalty for such violation shall subject the violator to a fine of not less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500) or as amended.

#### Section 14-63 Repeal of Conflicting Ordinances

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

#### Section 14-64 Severability

If any section, subsection, paragraph, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

#### Section 14-65 Effective Date

The ordinance shall be in full force and effect from and after the date of adoption and/or amendment.

**Adopted this the 13<sup>th</sup> day of August, 2013.**

## **CHAPTER 15**

### **Parks and Recreation**

Article I.	In General	15-1 through 15-20
Article II.	Park Regulations	15-21 through 15-50

#### **Article I. – In General**

##### Section 15-1 through 15-20 Reserved

#### **Article II. – Park Regulations**

##### Section 15-21. Title.

This article shall be known and may be cited as the “Town of McAdenville Ordinance Regulating Conduct in Town Parks and Public Property.”

##### Section 15-22. Construction of Article.

- a) Any requirement or prohibition of any act shall respectively extend to and include the causing and procuring, directly or indirectly, of such act.
- b) No provision of this article shall make unlawful any act necessarily performed by any officer or employee of the Town in the line of duty or work as such, or by any person, his agent or employees, in the proper and necessary execution of the terms of any agreement.
- c) Any act otherwise prohibited by law or ordinance shall be lawful if performed under, by virtue of, and strictly within the provisions of a permit so to do, and to the extent authorized thereby.

##### Section 15-23. Definitions. (amended 9/14/2021)

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

Town Clerk means the Town Clerk of the Town of McAdenville.

Town Council means the McAdenville Town Council.

Mayor means the Mayor of the Town of McAdenville.

Park, park property, public property means and includes all or any portion of any park or other public property in the Town of McAdenville including, but not limited to, Legacy Park, the greenway, and other property owned or leased by the Town of McAdenville.

Permit means any written license issued by or under the authority of the Town Council permitting the performance of a specified act.

Regulation means any regulation duly adopted by the McAdenville Town Council.

#### Section 15-24. Enforcement of Article.

⊕ Enforcement of this article is punishable by immediate suspension from the park for not more than thirty (30) days. -The Mayor or his designee is empowered to invoke this suspension. Town police officers shall have the duty and responsibility to enforce this article and shall be empowered to issue citations for violations as set forth in section 15-25 when, in their judgement, any provisions have been violated. Violation of suspension is further punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

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#### Section 15-25. Penalty for violation of article; fines.

Except as otherwise provided, a violation of this article shall be a misdemeanor punishable by a two hundred dollar (\$200.00) penalty and enforced in accordance with G.S. 160A-175, and in addition to any of the specific penalties set forth in any section of this Chapter, any violation of any provision of this Chapter is punishable by a civil penalty in the amount of \$200.00.

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#### Section 15-26. Park preservation.

Upon any park property, it shall be unlawful for any person to:

- a) Destruction of Property. Mark, deface, disfigure, injure, tamper with or displace or remove any tables, benches, trash receptacles, railings, paving or paving materials, waterlines or other public utilities or parts of appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or playground equipment, facilities or park property or appurtenances whatsoever, either real or personal.
- b) Excavation. Dig or remove any soil, rock, sand, stones, trees, shrubs or plants or other wood or materials or make any excavation by tool, equipment, blasting or other means or agency.

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- c) Damage to plants or grass. Damage, cut, carve, mark, transplant or remove any plant, or injure the bark, or pick flowers or seed of any tree or plant, dig in or disturb grass area, or in any other way injure the natural beauty or usefulness of any area.
- d) Structures. Construct or erect any building or structure of whatever kind, whether permanent or temporary, or run or string any public service utility into, upon or across park property, except on special written permit issued pursuant to this article.
- e) Waste. Take into, carry through or put into any park, any rubbish, refuse, garbage, or other material. Such refuse and rubbish shall be deposited in receptacles so provided. Where receptacles are not provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.
- f) Signs/Banners. Attach or place any sign, banner, wire, rope cable, or any other contrivance to any building, sign, tree, or other park property without prior written approval from the Town Clerk; such apparatus, if permitted, shall be removed within one (1) hour after the close of the event.
- g) Animals/Waste and Control. Cause or permit any animal, under a person's custody or his control, to enter the park, except a dog restrained by a leash not exceeding six (6) feet in length, except when such animal is part of the park program. Further, the person having custody of the dog or animal shall be responsible for the removal of any animal solid waste.
- h) Livestock. Bring, use, ride or drive a horse, pony, mule, cow or any other animal in any part of the park unless the animal is part of a park sponsored program, except as provided in subsection (g) of this section.

Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

#### Section 15-27. Firearms; explosives; alcoholic beverages; drugs; dangerous substances.

It shall be unlawful for any person to bring into or have in his possession:

- ② Firearms. No person shall carry, possess or use any firearm or other dangerous weapon upon any park property, save and except a permitted concealed handgun in accordance with G.S. 14-415.11(c). However, permitted concealed handguns are prohibited in any municipal recreation facility as defined herein. For the purposes of this section, a municipal recreation facility is defined as a playground, an athletic facility or a swimming pool being a McAdenville park. The following recreational facilities are specifically identified by the Town in compliance with G.S. 14-415.11(c): (1)

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a) Legacy Park with playground located on Elm Street and an area twenty feet in width around this facility.

- i. Nothing in this section shall preclude the holder of a concealed handgun permit from securing a handgun in a locked vehicle, within the trunk, glove box, or other enclosed compartment or area within or on the motor vehicle at the recreation facility.
- ii. This section shall not apply to law enforcement or other government personnel acting within the scope of their employment.
- iii. The Town Clerk shall post conspicuous notice at appropriate locations at, on, or within each recreational facility that carrying a concealed handgun is prohibited therein.

b) Alcohol/controlled substances. -Alcohol consumption is prohibited in all parks except where sold or provided pursuant to a State ABC permit. -Controlled substances are prohibited unless possessed pursuant to a valid physician's prescription. -While in a park persons must conduct themselves in a proper and orderly manner without a breach of the peace.

c) Fireworks/explosives. Any fireworks or explosives of any kind or nature except as may be otherwise permitted by law.

e) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

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#### Section 15-28. Hours of operation.

It shall be unlawful for any person to enter or remain in any park except during those hours of operation that is open to the general public as established by the Town Council and posted accordingly. Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

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#### Section 15-29. Personal conduct. (Amended 9/14/2021)

It shall be unlawful for any person:

- a) To engage in criminal or disorderly conduct of any kind within any park.

- b) To engage in any activity, which may constitute a hazard to the safety of themselves or other persons.
- c) To dispose of lighted or unlighted matches, cigars, cigarettes, cigarette butts, or any flammable material or substance in other than trash receptacles or ash cans.
- d) To engage in threatening language or excessively noisy conduct of any kind at any time within any park such that it unreasonably disturbs other park patrons or neighbors.
- e) To solicit, peddle or beg within any recreation facility or sell any merchandise or wares provided that this subsection shall not apply to: (1) any concession granted by the Town Clerk for a recreation facility; or (2) any solicitation or sale of goods by nonprofit or civic groups, provided that a permit is obtained in advance from the Town Clerk.
- f) To erect signs, posters, billboards or other advertising, notice or information placards on park property.
- g) To be nude in any Town park or recreation facility.

↳—Unless otherwise posted by the Town: (1) to engage in riding skateboards, coaster vehicles, bicycles, roller skates, or roller blades in parks other than the greenway; (2) to engage in riding skateboards on the greenway; or (3) to operate any motorized vehicle in any park, including the greenway, except as may otherwise be authorized by Chapter 6 of these Town Ordinances.

h)

Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

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#### Section 15-30. Registered sex offender prohibited in Town parks and recreation facilities.

It shall be a violation of this ordinance for any registered sex offender to be in or on a public park or recreation facility owned, operated, or maintained by the Town of McAdenville. Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4. Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

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#### Section 15-31. Use of tobacco products prohibited in Town parks.

It shall be unlawful for any person to use tobacco products of any kind in Town parks or Town property. [Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.](#) [Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.](#)

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Section 15-32. Effective Date.

This ordinance was adopted and became effective on January 8, 2013.

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This ordinance was amended on September 14, 2021. Section 15-23 and Section 15-29(a-h).

**Town of McAdenville Minimum Housing Standards**

**CHAPTER 17: MINIMUM HOUSING STANDARDS**

***Article I-General Provisions***

- Section 17.01 Findings; purpose; authority
- Section 17.02 Scope
- Section 17.03 Definitions
- Section 17.04 Dwelling unfit for human habitation; nuisance

***Article II-Minimum Standards For Dwellings***

- Section 17.15 Standards of dwelling fitness
- Section 17.16 Structural standards
- Section 17.17 Plumbing standards
- Section 17.18 Heating standards
- Section 17.19 Electrical standards
- Section 17.20 Light and ventilation standards
- Section 17.21 Space, use and location standards
- Section 17.22 Safe and sanitary maintenance standards
- Section 17.23 Insect, rodent and infestation control standards
- Section 17.24 Overcrowding standards

***Article III-Minimum Standards For Rooming Houses***

- Section 17.35 Provisions applicable to rooming houses
- Section 17.36 Water closet, hand lavatory and bath facilities
- Section 17.37 Minimum floor area for sleeping purposes
- Section 17.38 Sanitary conditions
- Section 17.39 Sanitary facilities

***Article IV- Administration and Enforcement***

- Section 17.50 Office of Code Enforcement Officer created; powers
- Section 17.51 Inspections
- Section 17.52 Administrative liability
- Section 17.53 Owner and occupants -- Responsibilities
- Section 17.54 Same -- enforcement of responsibilities
- Section 17.55 Preliminary investigations; notices; hearings
- Section 17.56 Procedure after hearing; order
- Section 17.57 Failure to comply with orders
- Section 17.58 Service of complaints and orders
- Section 17.59 Appeals
- Section 17.60 Alternative remedies
- Section 17.61 Conflict with other provisions

## **Town of McAdenville Minimum Housing Standards**

Section 17.62 Violations  
Section 17.63 Penalty  
Section 17.64 Repeal and reenactment of existing minimum housing code

### ***ARTICLE I - GENERAL PROVISIONS***

#### **SECTION 17.01 FINDINGS; PURPOSE; AUTHORITY.**

(A) Pursuant to G.S. 160A-441, it is hereby found and declared that there exist in the town and its area of extraterritorial jurisdiction dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering such dwellings unsafe and unsanitary and dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the town and its extraterritorial jurisdiction.

(B) In order to protect the health, safety and welfare of the residents of the town and its area of extraterritorial jurisdiction as authorized by G.S. Ch. 160A, Art. 19, it is the purpose of this chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160A-424 through 160A-432, 160A-441 through 160A-450, and 160A-193.

(C) In addition, it is hereby found and declared, under the authority of G.S. 160A-174, that there exist in the town dwellings which, although not meeting the classification as unfit for human habitation, fail to fully comply with all the minimum standards for housing fitness as established herein and, therefore, have present one or more conditions which are inimical to the public health, safety and general welfare. Such conditions, if not corrected, can lead to deterioration and dilapidation of dwellings which render them unfit for human habitation.

(D) This chapter is hereby declared to be remedial and shall be construed to secure the beneficial interest and purposes thereof, which are public health, safety, and general welfare, through structural strength, stability, sanitation, adequate light and ventilation and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of dwellings, apartment houses, rooming houses or buildings, structures or premises used or intended for use as such.

## **Town of McAdenville Minimum Housing Standards**

### **SECTION 17.02 SCOPE.**

(A) The provisions of this chapter shall apply to all dwellings or dwelling units within the town and its area of extraterritorial jurisdiction regardless of when such units were constructed, altered, repaired or improved. Portable, mobile or demountable buildings or structures, including trailers, when used or intended for use for housing within the jurisdiction, shall be subject to the applicable provisions of this chapter. This chapter establishes minimum requirements for the initial and continued occupancy of all buildings used for human habitation and does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities, except as provided in this chapter.

(B) The provisions of this chapter shall also apply to abandoned structures which are found by the Town Council to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary conditions.

### **SECTION 17.03 DEFINITIONS.**

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

**ABANDONED STRUCTURE.** Any structure, whether designed and intended for residential or other uses, which is vacant or not in active use, regardless of purpose or reason, for the past two-year period and which is determined by the Code Enforcement Officer to be unfit for human habitation or occupancy based upon the standards as set forth in this chapter.

**ACCESSORY BUILDING.** A building or structure the use of which is incidental to that of the main building or structure, and which is located on the same lot or on a contiguous lot.

**ALTERATION.** As applied to a building or structure, shall mean a change or rearrangement in the structural parts or in the existing facilities; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another; and the term alter in its various moods and tenses and its participle, refer to the making of an alteration.

**APARTMENT.** A room or suite of rooms occupied, or which is intended or designed to be occupied as the home or residence of one individual, family or household for housekeeping purposes.

**APPROVED.** As applied to a material, device or mode of construction, shall mean approved by the Code Enforcement Officer under the provisions of this code, or by other authority designated by law to give approval in the matter in question.

#### **AREA:**

(1) As applied to the dimension, shall mean the maximum horizontal projected area of the building.

## **Town of McAdenville Minimum Housing Standards**

(2) As applied to the dimensions of a room, shall mean the total square footage of floor area between finished walls.

**BASEMENT.** A portion of a building which is located partly underground, having access to light and air from windows located above the level of the adjoining ground.

**BUILDING.** Any structure built for the support, shelter or enclosure of persons which has enclosed walls for 50% of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof."

**CELLAR.** A portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

**CLOSE.** To secure the building so that unauthorized persons cannot gain entrance to the building.

**CODE ENFORCEMENT OFFICER.** The person who has been designated, in writing, by the Town Administrator or is otherwise authorized by ordinances adopted hereunder to administer and enforce the provisions of this chapter.

**DEMOLISH.** The demolition and removal of the entire building leaving the property free and clear of any debris and without holes or pockets which may retain water.

**DETERIORATED.** Shall mean that a dwelling that is unsafe or unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards of fitness established by this chapter at a cost not in excess of 50% of its physical value, as determined by finding of the Code Enforcement Officer.

**DILAPIDATED.** A dwelling that is unsafe or unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards of fitness established by this chapter at a cost not in excess of 50% of its physical value, as determined by a finding of the Code Enforcement Officer.

**DWELLING.** Any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home or mobile home which is used solely for a seasonal vacation purpose.

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

**EXTERMINATION.** The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible, materials that may serve as their food by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the Code Enforcement Officer.

## **Town of McAdenville Minimum Housing Standards**

**GARBAGE.** The animal and vegetable waste or by-product resulting from the handling, preparation, cooking and consumption of food or other matter which is subject to decomposition, decay, putrefaction or the generation of noxious or offensive gases or odors, or which during or after decay, may serve as breeding or feeding materials for flies, insects or animals.

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

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

**MANUFACTURED HOME OR MOBILE HOME.** A structure as defined in G.S. 143-145(7).

**MULTIPLE DWELLING.** Any dwelling containing two or more dwelling units.

**OCCUPANT.** Any person over one year of age living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.

**OPERATOR.** Any person who has charge, care or control of a building or part thereof, in which dwelling units or rooming units are let.

**OWNER.** Any person who alone, or jointly and severally with others:

(1) Shall be the holder of the title in fee simple and every mortgagee of record to any dwelling or dwelling unit, with or without accompanying actual possession thereof.

(2) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall comply with the provisions of this chapter, and rules and regulations adopted pursuant thereto to the same extent as if he were the owner.

**PARTIES IN INTEREST.** All individuals, associations and corporations who have interests of record in a dwelling and any who are in possession thereof.

**PIER.** A masonry support extending from the ground and footing to and supporting the building or portion thereof. Pier sizes and spacing shall conform to the specifications of the *North Carolina Residential Building Code*.

**PLUMBING.** All of the following supplied facilities and equipment: Gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwasher, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basin, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

**PUBLIC AUTHORITY.** Any housing authority or any officer who is in charge of any department or

## **Town of McAdenville Minimum Housing Standards**

branch of the government of the town, county, or state relating to health, fire, building regulations, or other activities concerning dwellings in the town.

**PUBLIC SPACE.** That space within any dwelling which is open to use by the general public.

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

**ROOMING UNIT.** Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

**RUBBISH.** Combustible and noncombustible waste materials, except garbage and ashes. The term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

**SUPPLIED.** Paid for, furnished or provided by, or under the control of, the owner or operator.

**TEMPORARY HOUSING.** Any tent, trailer, or other structure used for human shelter which: is designed to be transportable; which is not attached to the ground, to another structure, or to any utility system on the same premises for more than 30 consecutive days; and/or which does not have a permanent foundation (footings, piers and foundation wall).

**TENANT.** Any person who alone or jointly and severally with others occupies a residential building under a lease or holds a legal tenancy in a building.

**UNFIT FOR HUMAN HABITATION.** Those conditions existing in a dwelling which violate or do not comply with one or more of the minimum standards of fitness, or with one or more of the responsibilities of owners and occupants established by this chapter.

## **SECTION 17.04 DWELLING UNFIT FOR HUMAN HABITATION; NUISANCE.**

The Code Enforcement Officer shall determine that a dwelling is unfit for human habitation if he finds that one or more of the conditions set out in 17.15 herein, exists in such dwelling or one or more of the responsibilities of owners and occupants established by this chapter is not met. All buildings or portions of buildings which are used or intended for use as dwellings and are, under the provisions of this chapter, unfit for human habitation, are hereby declared to be a public nuisance, and shall be repaired or rehabilitated to the standards of this chapter or demolished in accordance with the procedure set forth herein.

## **ARTICLE II-MINIMUM STANDARDS FOR DWELLINGS**

## **Town of McAdenville Minimum Housing Standards**

### **SECTION 17.15 STANDARDS OF DWELLING.**

Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness and all of the requirements of this chapter. No person shall occupy as owner occupant, or let to another for occupancy or use as a human habitation, any dwellings or dwelling units which do not comply with all of the minimum standards of fitness for human habitation and all of the requirements of this chapter. All work shall be done in a workmanlike manner.

### **SECTION 17.16 STRUCTURAL STANDARDS.**

(A) *Foundation.* Foundations shall conform to the following:

- (1) Beneath the building there shall be firm ground, which is reasonably dry, properly drained and no water running under the building.
- (2) There shall be sound footings, adequate bearings.
- (3) There shall be sound piers, no loose mortar or masonry.
- (4) There shall be no piers in which the plumb line from the top center falls outside the middle one-third of the pier base.
- (5) There shall be no isolated solid masonry piers exceeding in height ten times the least dimension of the pier.
- (6) There shall be no wood stiff-knee piers.
- (7) There shall be masonry underpinning on all dwelling units with ventilation as required by the state residential building code.

(B) *Floors.* Floors shall conform to the following:

- (1) There shall be no decayed, termite damaged, fire-damaged, broken, overloaded or sagging sills.
- (2) Sills shall be properly supported and reasonably level.
- (3) Joists shall not be overloaded, sagging or broken, and shall be structurally sound and not likely to cause structural weakness in the future.
- (4) Maximum spans for floor joists and sills, providing they show no signs of being weak or overloaded, shall comply with the requirements of the state residential building code.

## **Town of McAdenville Minimum Housing Standards**

(5) Flooring shall be weather tight without holes or excessive cracks which permit air to penetrate rooms.

(6) Flooring shall be reasonably smooth and not decayed, fire damaged or worn through.

(7) There shall be no loose flooring.

(8) Floors shall be reasonably level.

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

(10) The flooring in each room shall consist of the same or similar material; and where covering or finishing is provided, such covering or finishing shall be reasonably smooth and not worn through.

(11) Bath, kitchen and washer/dryer area floors shall have water resistant floor coverings.

**(C) *Walls, exterior.*** Exterior walls shall conform to the following:

(1) There shall be no wall in which the plumb line from the top center of studs falls outside the base plate at any point along the wall.

(2) Maximum spacing for studding shall conform to the specifications of the *North Carolina Residential Building Code*, provided the spacing for studding shall not show signs of being weak or overloaded. Otherwise, lesser spacing for studding shall be required.

(3) Studs shall be structurally sound and not likely to cause structural weakness in the future.

(4) There shall be no broken or cracked structural members.

(5) All siding shall be weather tight, with no holes or excessive cracks or decayed, rotted, deteriorated or damaged boards which permit air to penetrate rooms or otherwise admit rodents.

(6) There shall be no loose siding.

(7) There shall be no deterioration because of lack of preventive maintenance consisting of painting, waterproofing, and repair.

**(D) *Walls, interior.*** Interior walls shall conform to the following:

(1) Interior finish shall be free of holes and excessive cracks which permit air to penetrate rooms, and if painted or papered, shall be free of chips or excessive peeling.

(2) There shall be no walls in which the plumb line from the top center of studs falls outside the base plate at any point along the wall.

(3) There shall be no loose plaster, loose boards, or other loose wall materials.

## **Town of McAdenville Minimum Housing Standards**

(4) There shall be no cardboard, newspaper or highly combustible or improper wall finish; and all wall materials shall be of the same or similar quality and material.

(5) Maximum spacing for studding shall conform to the specifications of the *North Carolina Residential Building Code*, provided the studding does not show signs of being weak or overloaded. Otherwise, lesser spacing for studding shall be required.

(6) Studs shall be structurally sound and not likely to cause structural weakness in the future.

(7) There shall be no broken or cracked studs or other structural members.

(8) There shall be no rotted, deteriorated or damaged walls and all walls shall be free from holes or cracks which might admit rodents.

(9) There shall be headers above all doors and windows.

### **(E) Ceilings.** Ceilings shall conform to the following:

(1) There shall be no joists which are decayed, broken, sagging, or improperly supported at the ends.

(2) Maximum spacing for ceiling joists shall conform to the specifications of the *North Carolina Residential Building Code*, provided the ceiling joists do not shows signs of being weak or overloaded. Otherwise, lesser spacing for ceiling joists shall be required.

(3) Maximum spans for ceiling joists shall comply with the specifications of the *North Carolina Residential Building Code*, provided the ceiling joists do not shows signs of being weak or overloaded. Otherwise, lesser spans for ceiling joists shall be required.

(4) There shall be no holes or excessive cracks which permit air and dust to penetrate rooms.

(5) There shall be no loose plaster, boards, gypsum wall board, or other ceiling finishes.

(6) There shall be no cardboard, newspaper, highly combustible or improper ceiling finishes; and all ceiling materials shall be of the same or similar quality and material.

(7) Ceiling joists shall be structurally sound and not likely to cause structural weakness in the future.

### **(F) Roofs.** Roofs shall conform to the following:

(1) There shall be no rafters which are decayed, broken, or improperly supported at the ends.

(2) No rafters shall be seriously damaged by fire.

## **Town of McAdenville Minimum Housing Standards**

(3) Rafters shall be properly braced and tied four feet on center maximum.

(4) The attic shall be ventilated as required by the state residential building code.

(5) Sheathing shall not be loose and shall be structurally sound and not likely to cause structural weakness in the future.

(6) There shall be no loose roof covering, no holes, and no leaks causing damage to the structure or rooms.

(7) There shall be a minimum of Class "C" roof covering.

(8) There shall be proper flashing at walls or chimneys, so as to be weather tight and watertight.

(G) *Porches.* Porches shall conform to the following:

(1) The floor, ceiling, and roof shall be equal to requirements set forth above, except sills, joists, and floors need not be level if providing drainage of floors; floors need not be weather tight; the ceiling height may be a minimum of seven feet six inches; and the attic need not be vented.

(2) Every porch, terrace or entrance platform 48 inches or more above adjacent finished grade shall be equipped with railings or guards not less than 30 inches high, unless other effective barriers provide adequate safety.

(3) If post and railings are provided, they shall be structurally sound and not likely to cause structural weakness in the future.

(4) Porches shall be maintained in such condition that they will not fail or collapse.

(H) *Stairs and steps.* Stairs and steps shall conform to the following:

(1) Stairs and steps shall be free of holes, grooves, and cracks large enough to constitute accident hazards.

(2) Steps shall be maintained in such condition that they will not fail or collapse.

(3) Stairwells and flights of stairs more than four risers high shall have rails not less than two feet six inches measured vertically from the nose of the treads to the top of the rail.

(4) Every rail shall be firmly fastened and maintained in good condition.

(5) No flight of stairs shall be settled more than one inch out of its intended position or pulled away from supporting or adjacent structures.

(6) Supports shall not sag and shall be structurally sound and not likely to cause structural weakness in the future.

## **Town of McAdenville Minimum Housing Standards**

(7) Every stair riser shall be reasonably uniform in height, and treads shall be sound and securely fastened in position and strong enough to bear a concentrated load of at least 300 pounds without danger of breaking through.

(8) Stairs and steps shall conform to the specifications of the *North Carolina Residential Building Code*.

(I) *Egress*. All dwellings shall contain adequate facilities for egress in case of fire or panic.

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

(K) *Accessory buildings*. All accessory buildings and structures, including detached garages, shall be maintained structurally sound and in good repair or shall be razed to grade level and the debris therefrom removed from the premises.

## **SECTION 17.17 PLUMBING STANDARDS.**

(A) All plumbing shall be installed in accordance with the *North Carolina Plumbing Code* and shall be maintained in a state of good repair and in good working order.

(B) All plumbing shall be connected to the town sanitary sewer system where available or to another approved system connected to a potable water supply.

(C) All fixtures shall be operable and accessible to the occupants of the dwelling.

(D) There shall be no broken water closet bowls.

(E) Water closets shall not be loose or leaking.

(F) No leaks shall be in shower stall floor and/or wall.

(G) There shall be adequate facilities for furnishing hot water to each tub or shower, lavatory, and kitchen sink.

(H) There shall be installed a potable water supply inside the building for each dwelling unit.

(I) There shall be installed in each dwelling unit not less than a kitchen sink, a water closet, tub or shower, lavatory and sink and an adequate supply of both cold and hot water.

(J) There shall be separate toilet facilities for each dwelling unit.

(K) Toilet and bathing facilities shall be protected from the weather.

### **Town of McAdenville Minimum Housing Standards**

- (L) All water piping shall be protected from freezing by proper installation in protected space.
- (M) Sewer and water pipes shall be supported with no broken or leaking pipes.
- (N) Every water closet compartment floor surface and bathroom floor surface shall be so constructed and maintained as to be reasonably impervious to water and so as to permit such floor to be readily kept in a clean and sanitary condition.
- (O) The water closet and tub or shower shall be located in a room or rooms affording privacy to use.

### **SECTION 17.18 HEATING STANDARDS.**

- (A) Every building and every dwelling unit shall be weatherproof and capable of being adequately heated, and the heating equipment in every dwelling or dwelling unit shall be maintained in good order and repair.
- (B) Every dwelling and dwelling unit shall have facilities for providing heat in accordance with either subparagraph (1) or (2) of this division (B):
  - (1) *Central and electric heating systems.* Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected to a minimum temperature of 65° F. measured at a point three feet above the floor with an outside temperature of 20° F. during winter conditions.
  - (2) *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling shall be provided with sufficient electrical receptacles, fireplaces, chimneys, flues, or gas vents, whereby heating appliances may be connected, so as to heat all habitable rooms to a minimum temperature of 65° F. measured three feet above the floor with an outside temperature of 20° F. during winter conditions.
- (C) All electric, gas and oil heating equipment installed on the premises shall be listed by Underwriters Laboratories or American Gas Association and installed in accordance with the provisions of the state heating code.
- (D) There shall be no loose bricks in chimneys.
- (E) There shall be no holes in flues.
- (F) There shall be no suspended or hanging masonry chimneys.
- (G) Thimbles shall be grouted in tightly.
- (H) Thimbles shall not be broken or cracked.
- (I) Thimbles shall be high enough for stovepipe to rise one-quarter inch per foot minimum.

### **Town of McAdenville Minimum Housing Standards**

(J) The hearth shall be at least 16 inches deep and eight inches beyond each side of the fireplace opening.

(K) No combustible materials shall be within seven inches of the top and seven inches of either side of the fireplace opening.

(L) Fireplaces shall be enclosed with masonry when the chimney is used as a flue for a stove.

(M) A stove shall be within six feet of a thimble serving it.

(N) No combustible material shall be within 12 inches of a stovepipe.

(O) No stovepipe shall protrude through combustible walls.

(P) In multiple dwellings and rooming houses with central heat, the furnace room shall be enclosed with material having at least a one-hour fire protection rating.

(Q) Fireplaces may be used for supplementary heating only and not for basic heat.

### **SECTION 17.19 ELECTRICAL STANDARDS.**

(A) Every dwelling shall be wired for electrical lights and convenience receptacles.

(B) No receptacles, ceiling fixtures, or other fixtures shall be hanging loose.

(C) All switches and receptacles shall be safely operable.

(D) Every habitable room shall contain not less than two wall-type electrical convenience receptacles connected in such manner as required by the *National Electrical Code*.

(E) There shall be installed in every habitable room, bathroom, laundry room, hallway, stairway and furnace room at least one supplied ceiling or wall type electrical light fixture; provided, further, that the ceiling light fixture may be omitted in a living room and bedrooms, provided three electrical convenience receptacles are installed, one of which is controlled from a wall switch.

(F) There shall be no unsafe wiring.

(G) There shall be no drop or extension cords in excess of six feet in length.

(H) No circuits shall be overloaded. Fuses shall be sized correctly and not bridged out.

(I) All fixtures, receptacles, equipment in every public hall and stairway in every multiple dwelling unit shall be adequately lighted by electrical lights at all times when natural light is not sufficient. All wiring to be installed and maintained shall be in accordance with the *National Electrical Code*.

## **Town of McAdenville Minimum Housing Standards**

### **SECTION 17.20 LIGHT AND VENTILATION STANDARDS.**

(A) *Generally.* Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area measured between stops, for every habitable room shall be 10% of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light obstructions are located less than five feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight type window in the top of such a room, the total window area of such skylight shall equal at least 15% of the total floor area of such room.

(B) *Habitable rooms.* Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total operable window area in every habitable room shall be equal to at least 45% of the minimum window area size or minimum skylight type window size as required, or shall have other approved equivalent ventilation.

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

(D) *Public halls.* Every public hall and inside stairway in every multifamily dwelling shall be adequately lighted at all times with an illumination of at least three foot candles per square foot in the darkest portion of the normally traveled stairs and passageways.

(E) *Window locks.* All window openings to the outside shall be reasonably weathertight and shall have operable locks.

### **SECTION 17.21 SPACE, USE AND LOCATION STANDARDS.**

(A) Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling may count for not more than 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as a part of the floor area in computing the total area of the room to determine maximum permissible occupancy.

(B) At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet and six inches.

(C) At least one room in the dwelling shall contain not less than 150 square feet.

(D) A kitchen-dining room combination, if any, shall be not less than 100 square feet.

### **Town of McAdenville Minimum Housing Standards**

- (E) A first bedroom, if any, shall be not less than 150 square feet.
- (F) A second bedroom, if any, shall be not less than 100 square feet.
- (G) There shall be at least 75 square feet in each habitable room.
- (H) There shall be at least 150 square feet of floor space in habitable rooms for the first occupant in each dwelling unit and at least 100 square feet for each additional occupant.
- (I) Those habitable rooms which must be included to meet the foregoing minimum space requirements shall be at least seven feet wide in any part with at least one-half of the floor area having a ceiling height of at least seven feet six inches. That portion of any room where the ceiling height is less than five feet shall not be considered as part of the required floor area.
- (J) No cellar shall be used for living purposes unless:
  - (1) The floor and walls are substantially watertight;
  - (2) The total window area, total operable window area and ceiling height are equal to those required for a habitable room;
  - (3) The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the windows face a stairwell, window well or access way.
- (K) Water closet and bathing facilities shall be enclosed with an operable door and lock for privacy.
- (L) There shall be no holes or excessive cracks in walls, ceilings, outside doors or outside windows.
- (M) Access shall be provided to all rooms within a dwelling unit without passing through a public space.
- (N) Doors shall be provided at all doorways leading to bedrooms, water closet rooms, and bathrooms and all rooms adjoining a public space.
- (O) All doors providing access to any living unit shall have operable locks, and the owner shall provide a change of locks or keys for new tenants.
- (P) All doors opening to the outside shall be reasonably weather tight.
- (Q) There shall be installed in every dwelling unit an operable smoke detector or alarm.

### **SECTION 17.22 SAFE AND SANITARY MAINTENANCE STANDARDS.**

- (A) *Exterior foundation, walls and roofs.* Every foundation wall, exterior wall and exterior roof shall be substantially weather tight and rodent proof; shall be kept in sound condition and good repair; shall be

### **Town of McAdenville Minimum Housing Standards**

capable of affording privacy; shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent penetration of moisture or the weather.

(B) *Interior floors, walls and ceilings.* Every floor, interior wall and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(C) *Windows and doors.* Every window, exterior door, basement or cellar door and hatchway shall be substantially weather tight, watertight and rodent proof; and shall be kept in sound working condition and good repair.

(D) *Stairs, porches and appurtenances.* Every inside and outside stairwell, porch and any other appurtenances thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.

(E) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in sound condition and good repair.

(F) *Supplied facilities.* Every supplied facility, piece of equipment or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

(G) *Drainage.* Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.

### **SECTION 17.23 INSECT, RODENT AND INFESTATION CONTROL STANDARDS.**

(A) *Screens.* For protection against mosquitoes, flies and other insects every dwelling shall have:

(1) Supplied and installed screens on every door opening leading directly from the dwelling to outdoor space. Except, that sliding doors, doors with self closing devices, doors on mobile homes with self closing devices and doors that open into rooms or living spaces that are artificially ventilated or air conditioned are exempt from this provision.

(2) Supplied and installed screens on every window or other device with an opening to outdoor space, except that this requirement shall not apply for any room or rooms of a dwelling that are ventilated year round with an operable and installed heating and air conditioning system.

(B) *Rodent control.* Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens installed or such other approved device as will effectively prevent their entrance.

(C) *Infestation.* Every dwelling shall be maintained in a manner to be free of any infestations of

### **Town of McAdenville Minimum Housing Standards**

insects, rodents or other pests. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units extermination shall be the responsibility of the owner.

(D) *Rubbish storage and disposal.* Every dwelling shall be supplied with approved containers and covers for storage of rubbish as required by town ordinances, and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

(E) *Garbage storage and disposal.* Every dwelling shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit or an incinerator unit, to be approved by the Code Enforcement Officer, in the structure for the use of the occupants of each dwelling unit, or an approved outside garbage can as required by town ordinances.

### **SECTION 17.24 OVERCROWDING STANDARDS.**

There shall be at least 150 square feet of floor space in habitable rooms for the first occupant in each dwelling unit and at least 100 square feet for each additional occupant.

## **ARTICLE III-MINIMUM STANDARDS FOR ROOMING HOUSES**

### **SECTION 17.35 PROVISIONS APPLICABLE TO ROOMING HOUSES.**

All of the provisions of this chapter, and all of the minimum standards and requirements of this chapter shall be applicable to rooming houses, and to every person who operates a rooming house or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in 17.36 through 17.39.

### **SECTION 17.36 WATER CLOSET, HAND LAVATORY AND BATH FACILITIES.**

At least one water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever such facilities are shared. All such facilities shall be located within the residence building served, shall be directly accessible from a common hall or passageway and shall not be more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

### **SECTION 17.37 MINIMUM FLOOR AREA FOR SLEEPING PURPOSES.**

## **Town of McAdenville Minimum Housing Standards**

Every room occupied for sleeping purposes by one occupant shall contain at least 100 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

### **SECTION 17.38 SANITARY CONDITIONS.**

The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for the sanitary maintenance of every other part of the rooming house; and shall be further responsible for the sanitary maintenance of the entire premises.

### **SECTION 17.39 SANITARY FACILITIES.**

Every water closet, flush urinal, lavatory basin and bathtub or shower required by 17.36 shall be located within the rooming house and within a room or rooms which afford privacy and are separate from the habitable rooms, and which are accessible from a common hall and without going outside the rooming house or through any other room therein.

## ***ARTICLE IV-ADMINISTRATION AND ENFORCEMENT***

### **SECTION 17.50 OFFICE OF CODE ENFORCEMENT OFFICER CREATED; POWERS.**

(A) For the purposes of administering and enforcing the provisions of this chapter the office of Code Enforcement Officer is hereby created.

(B) The Code Enforcement Officer shall be appointed by the Town Administrator, shall take and subscribe to the oath of office administered by the Mayor, and shall have such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, without limiting the generality of the foregoing, in addition to others herein granted, the following powers:

(1) To investigate the dwelling and building conditions and to inspect dwellings, dwelling units and buildings in the town in order to determine which dwellings therein are unfit for human habitation.

(2) To administer oaths and affirmations and to examine witnesses and receive evidence.

(3) To enter upon and within premises and dwellings for the purpose of making examinations and investigations; provided, that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession.

(4) To delegate any of his functions and powers under this chapter to such officers and agents

## **Town of McAdenville Minimum Housing Standards**

as he may designate.

(5) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the provisions of this chapter.

### **SECTION 17.51 INSPECTIONS.**

For the purpose of carrying out the intent of this chapter, the Code Enforcement Officer is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units and premises, including abandoned structures after sufficiently identifying himself. The owner or occupant of every dwelling, dwelling unit or rooming unit, or the person in charge thereof, shall give the Code Enforcement Officer free access to such dwelling, dwelling unit or rooming unit, and its premises, at all reasonable times for the purposes of such inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit, and its premises, at all reasonable times for the purpose of making such repairs or alterations, as are necessary to effect compliance with the provisions of this chapter or with any lawful order issued pursuant to the provisions of this chapter.

### **SECTION 17.52 ADMINISTRATIVE LIABILITY.**

Except as may otherwise be provided by statute or local law or ordinance, no officer, agent or employee of the town charged with the enforcement of the housing code shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter unless he acted with actual malice.

### **SECTION 17.53 RESPONSIBILITIES OF OWNER AND OCCUPANTS.**

(A) The relative responsibilities of the owners of dwelling units and of the occupants of the dwelling units shall be as follows:

(1) *Public spaces.* Every owner of a building shall be responsible for maintaining in a reasonably clean and sanitary condition, the shared or public spaces of the building and premises thereof.

(2) *Cleanliness.* Every occupant shall be responsible for maintaining in a reasonably clean and sanitary condition that part of the dwelling unit and premises which he occupies and controls.

(3) *Infestation.* Every occupant shall be responsible for the extermination of any insects, rodents, or other pests infesting the dwelling unit; provided, however, that the owner shall be responsible for such extermination if, as a consequence of violations of the standards of fitness, the dwelling unit is not reasonably impervious to pests.

(4) *Rubbish and garbage.* Every occupant shall be responsible for disposing of his rubbish and

## **Town of McAdenville Minimum Housing Standards**

garbage in a clean and sanitary manner by placing it in adequate facilities for such disposal.

(5) *Plumbing.* Every owner shall be responsible for providing adequate operable plumbing facilities, including an adequate water heater, and for maintaining such facilities in efficient operating condition; every occupant shall be responsible for exercising reasonable care in the use of such facilities and for maintaining such facilities in a clean and sanitary condition.

(6) *Heating.* Every owner shall be responsible for providing adequate operable facilities and appliances supplying heat throughout the dwelling unit in compliance with the standards of fitness; every occupant shall be responsible for exercising reasonable care in the use of such facilities and appliances.

(7) *Care of premises.* No occupant shall willfully destroy, deface or otherwise impair any of the facilities or equipment of the owner on the premises which they occupy and control, or any part of the building itself. Willful destruction of the premises by the occupant shall be deemed legal grounds for eviction.

(B) Every owner shall remain ultimately responsible for violations of responsibilities imposed upon him by this chapter or any other ordinance although a similar responsibility may also be imposed upon the occupant and although the occupant may have agreed to bear the responsibility imposed by ordinance upon the owner.

### **SECTION 17.54 ENFORCEMENT OF RESPONSIBILITIES.**

Upon discovering in any building a condition resulting from noncompliance with the provisions in 17.53, the Code Enforcement Officer is hereby authorized to order, to take, or otherwise to cause to be taken, such remedial action as is necessary to correct such condition.

### **SECTION 17.55 PRELIMINARY INVESTIGATIONS; NOTICES; HEARINGS.**

Whenever a petition is filed with the Code Enforcement Officer by a public authority, or by at least five residents of the town, charging that any dwelling is unfit for human habitation, or whenever it appears to the Code Enforcement Officer (on his own motion) that any dwelling is unfit for human habitation, the Code Enforcement Officer shall, if his inspection discloses a basis for such charges, issue and cause to be served upon the owner and parties in interest in such dwellings, a complaint stating the charges in that respect, and containing a notice that a hearing will be held before the Code Enforcement Officer (or his designated agent) at a place within the county in which the property is located, fixed not less than ten days nor more than 30 days after the serving of the complaint. The owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Code Enforcement Officer.

### **SECTION 17.56 PROCEDURE AFTER HEARING; ORDER.**

### **Town of McAdenville Minimum Housing Standards**

(A) If, after notice and hearing, the Code Enforcement Officer determines that the dwelling under consideration is unfit for human habitation, he shall state in writing his findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter and improve such dwelling unit to comply with the minimum standards of fitness established by this chapter within the time specified in the order, to repair, alter or improve such dwelling to render it fit for human habitation or to vacate and close the dwelling as a human habitation as follows:

(1) If the repair, alteration or improvement of the dwelling can be made at a reasonable cost of less than 50% of the value of the dwelling, the order shall require the owner, within the time specified, to repair, alter or improve the dwelling in order to render it fit for human habitation or to vacate and close the dwelling as a human habitation;

(2) If the repair, alteration, or improvement of the dwelling cannot be made at a reasonable cost of less than 50% of the value of the dwelling, the order shall require the owner, within the time specified in the order, to remove or demolish such dwelling.

(B) If, after notice and hearing the Code Enforcement Officer determines that the dwelling under consideration is not unfit for human habitation, but is not in full compliance with one or more standards of dwelling fitness as set forth above, he may proceed with the enforcement procedures of 10.99, civil or criminal or both.

The Code Enforcement Officers order shall also provide that the housing to which it applies shall not be occupied if it is vacant as of the date of the order or becomes vacant before the required repair, alteration or improvement has been made, unless the owner obtains from the Code Enforcement Officer a certificate of fitness for occupancy, which shall be issued upon a finding by the administrator that the housing subject to the order is not unfit for human habitation.

### **SECTION 17.57 FAILURE TO COMPLY WITH ORDERS.**

(A) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the Code Enforcement Officer shall:

(1) Cause to be posted on the main entrance of any such dwelling, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful". Occupation of a building so posted shall constitute a violation of this chapter.

(2) Cause the dwelling to be repaired, altered or improved or to be vacated and closed.

(B) If the owner fails to comply with an order to remove or demolish the dwelling, the Code Enforcement Officer shall:

(1) Cause such dwelling to be vacated and removed or demolished.

### **Town of McAdenville Minimum Housing Standards**

(2) Cause to be posted on the main entrance of any such dwelling, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a violation of this chapter.

(C) The duties of the Code Enforcement Officer set forth in divisions (A) and (B) shall not be exercised until the Town Council shall have by ordinance ordered the Code Enforcement Officer to proceed to effectuate the purpose of this chapter with respect to the particular property or properties which the Code Enforcement Officer shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with this chapter. For the purposes of this subsection a period of 90 days following the date of the Code Enforcement Officers order shall constitute a reasonable opportunity. This ordinance shall be recorded in the Office of the Register of Deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

(D) The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the Code Enforcement Officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed against the real property, have the same priority, and be collected as the lien for special assessment provided in G.S. Ch. 160A, Art. 10. If the dwelling is removed or demolished by the Code Enforcement Officer, he shall sell the materials of the dwelling, and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court by the Code Enforcement Officer, shall be secured in a manner directed by the Court, and shall be disbursed by the Court to the persons found to be entitled thereto by final order of the decree of the Court.

(E) If any occupant fails to comply with an order to vacate a dwelling, the Code Enforcement Officer may file a civil action in the name of the town to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as party-defendants any persons occupying such dwelling. The Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten (10) days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the Code Enforcement Officer produces a certified copy of an ordinance adopted by the Town Council pursuant to division (C) of this section authorizing the Code Enforcement Officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. 7A-228, and the execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this division unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the Town Council has ordered the Code Enforcement Officer to proceed to exercise his duties under divisions (A), (B) and (C) of this section to vacate and close or remove and demolish the dwelling.

## **Town of McAdenville Minimum Housing Standards**

(F) Whenever a determination is made pursuant to division (A) of this section that a dwelling must be vacated and closed or removed or demolished under the provisions of this section, notice of the order shall be given by first class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before removal or demolition by action of the Code Enforcement Officer, to allow the opportunity for any organization to negotiate with the owner to make repairs or lease or purchase the property for the purpose of providing affordable housing. The Code Enforcement Officer shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the Code Enforcement Officer to wait 45 days before causing removal or demolition.

### **SECTION 17.58 SERVICE OF COMPLAINTS AND ORDERS.**

Complaints or orders issued by the Code Enforcement Officer pursuant to this chapter, except those being issued under 10.99, shall be served upon persons either personally or by registered or certified mail. If the identities or whereabouts of any owners are unknown and cannot be ascertained by the Code Enforcement Officer in the exercise of reasonable diligence, and the Code Enforcement Officer makes an affidavit to that effect, then the serving of the complaint or order upon the unknown owners or other persons may be made by publication in a newspaper having general circulation in the town at least once no later than the time at which personal service would be required under the provisions of this chapter. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

### **SECTION 17.59 APPEALS.**

(A) The Board of Adjustment is hereby appointed as the Housing Appeals Board to which appeals from any decision or order of the Code Enforcement Officer may be taken. Except where this chapter provides for different rules or procedures, the Board of Adjustment acting as the Housing Appeals Board shall follow its rules of procedure, which may be amended to provide specifically for this function.

(B) An appeal from any decision or order of the Code Enforcement Officer may be taken by any person aggrieved thereby or by any officer, board or commission of the town. Any appeal from the Code Enforcement Officer shall be taken within ten days from the service of the order by filing with the Code Enforcement Officer and with the Board of Adjustment a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Code Enforcement Officer shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Code Enforcement Officer refusing to allow the person aggrieved thereby to do any such act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the Code Enforcement Officer requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board of Adjustment, unless the Code Enforcement Officer certifies to the Board of Adjustment after the notice of appeal is filed with him, that because of facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his requirement would cause imminent peril to life or property. In that case the requirement shall not be suspended except by a restraining order,

### **Town of McAdenville Minimum Housing Standards**

which may be granted for due cause shown upon not less than one days written notice to the Code Enforcement Officer, the Board of Adjustment, or by a court of record upon petition made pursuant to division (E) of this section.

(C) The Board of Adjustment shall fix a reasonable time for hearing appeals, shall give due notice to the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision or order appealed from and may make any decision and order that in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Code Enforcement Officer, but the concurring vote of four-fifths of the members of the Board of Adjustment shall be necessary to reverse or modify any decision or order of the Code Enforcement Officer. The Board of Adjustment shall have power also in passing upon appeals, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(D) Every decision of the Board of Adjustment shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board.

(E) Any person aggrieved by an order issued by the Code Enforcement Officer or a decision rendered by the Board of Adjustment may petition the Superior Court for an injunction, restraining the Code Enforcement Officer from carrying out the order or decision and the Court may uphold such petition, issue a temporary injunction restraining the Code Enforcement Officer pending a final disposition of the cause. The petition shall be filed within 30 days after issuance of the order or rendering of the decision. Hearings shall be had by the Court on a petition within 20 days, and shall be given preference over other matters on the Courts calendar. The Court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction under this section.

### **SECTION 17.60 ALTERNATIVE REMEDIES.**

(A) Nothing in this chapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise, nor shall enforcement of one remedy provided herein prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. In addition to the remedies provided for herein, any violations of the terms of this chapter shall subject the violator to the penalties and remedies, either criminal or civil or both, as set forth in '17.63.

(B) No dwelling shall be hereafter erected, altered, moved, or changed in use without a certificate of occupancy. In any case where the Code Enforcement Officer, after notice and hearing as required herein, finds that a dwelling or dwelling unit is unfit for human habitation, he shall withhold issuance of a certificate of occupancy for such dwelling or dwelling unit until such time that he determines that it is fit for human habitation. In addition, in any case where the Code Enforcement Officer, after preliminary investigation as provided for herein, concludes, based upon that investigation, that a dwelling or dwelling unit is unfit for human habitation and believes that the occupancy of such dwelling or dwelling unit could

## **Town of McAdenville Minimum Housing Standards**

cause imminent peril to life or property from fire or other hazards, he shall withhold issuance of a certificate of occupancy for such dwelling or dwelling unit until such time that he determines that it is fit for human habitation.

(C) If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this chapter or of any valid order or decision of the Code Enforcement Officer or Board of Adjustment made pursuant to any ordinance or code adopted under authority of this chapter, the Code Enforcement Officer or Board of Adjustment may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration or use, to restrain, correct or abate the violation, to prevent the occupancy of the dwellings, or to prevent any illegal act, conduct or use in or about the premises of the dwelling.

### **SECTION 17.61 CONFLICT WITH OTHER PROVISIONS.**

In the event any provision, standard or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the towns jurisdiction shall prevail.

### **SECTION 17.62 VIOLATIONS.**

In addition to the conditions, acts or failures to act that constitute violations specified in this chapter above, it shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close or vacate and remove or demolish the same, upon order of the Code Enforcement Officer duly made and served as herein provided, within the time specified in such order, and each day that any such failure, neglect or refusal to comply with such order continues shall be subject to civil penalties as provided in '17.63.

(A) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to '17.56 of this chapter, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, and removal or demolition, and each day that such occupancy continues after such prescribed time shall be subject to civil penalties as provided in '17.63.

(B) Any owner of a dwelling, except an owner who occupies the dwelling as his principal place of residence, who fails to comply with an order of the Code Enforcement Officer to repair, alter or improve the dwelling, or to vacate and close and remove or demolish the dwelling, within the time specified in the order, shall be subject to civil penalties set forth in '17.63 until the dwelling is brought into compliance with the order.

(C) It shall be unlawful for any person, owner or occupant of any dwelling with respect to which an order has been issued pursuant to '17.54 to let to another for occupancy as a human habitation or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, or vacation and removal or demolition.

## **Town of McAdenville Minimum Housing Standards**

### **SECTION 17.63 PENALTY**

~~Unless otherwise specifically provided, if any person shall violate any provision of this code of ordinances, he shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$500 or imprisoned for not more than 30 days. (G.S. '14-4(a)) In addition to and without limiting other remedies available to the Town for violations of this Chapter, a person who violates any provision of this Chapter may be assessed a civil penalty in the amount of \$500.00, which if unpaid may be collected upon by the Town in the nature of a debt. A person who knowingly rents, leases, or otherwise allows the occupancy of a residence that has been deemed unsafe for human occupation may be charged with a misdemeanor, punishable upon conviction by a fine of up to \$500.00, imprisonment for up to thirty (30) days, or both.~~

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### **SECTION 17.64 REPEAL AND REENACTMENT OF EXISTING MINIMUM HOUSING CODE.**

The rewriting of this chapter in part carries forth by reenactment some of the provisions of the existing Minimum Housing Code of the town and it is not intended to repeal, but rather to reenact and continue in force such existing provisions so that all rights and liabilities that have been accrued are preserved and may be enforced. All provisions of the Minimum Housing Code which are not reenacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of the Minimum Housing Code in effect, which are not pending in any of the courts of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this chapter, but shall be prosecuted to their finality the same as if this chapter had not been adopted; and any and all violations of the existing chapter, prosecutions for which have not been instituted, may be filed and prosecuted.

*Statutory reference:  
For provisions concerning enforcement of ordinances, see G.S. ' 160A-175*