

**Ordinance #2022-16**

ORDINANCE AMENDING CHAPTERS 6, 10, 14, 22, 26, 30, 34, 38, 42, 46, 58, 62, 70,  
74, AND 78 OF THE CITY CODE TO COMPLY WITH THE REQUIREMENTS OF  
S.B. 300

BE IT ORDAINED, by the Mayor and Winston-Salem City Council as follows:

**Section 1.** Chapters 6, 10, 14, 22, 26, 30, 34, 38, 42, 46, 58, 62, 70, 74, and 78 of the City Code are hereby amended to read as follows:

**CHAPTER 6 ANIMALS AND FOWL**

**Sec. 6-8. - Noisy fowl.**

Any person keeping within the corporate limits of the city, or within one mile thereof, one or more flocks of fowl which habitually crow or cackle for at least 15 minutes during the nighttime or before or after daybreak in such a manner as to result in serious annoyance to neighboring residents and as to interfere with the reasonable use and enjoyment of the premises occupied by such residents shall be guilty of maintaining a nuisance. A violation of section 6-8, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 6-9. - Noisy dogs.**

Any person keeping within the corporate limits of the city, or within one mile thereof, one or more dogs which habitually and regularly bark, howl or whine for at least 15 minutes so as to result in serious annoyance to neighboring residents and as to interfere with the reasonable use and enjoyment of the premises occupied by such residents shall be guilty of maintaining a nuisance. A violation of section 6-9, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 6-10. - Complaint of violation of section 6-8 or 6-9; abatement of nuisance.**

Upon complaint being made to the police department of a violation of section 6-8 or 6-9, a representative of the police department shall notify such person maintaining the nuisance set out in such sections that a complaint has been made, and thereupon such person shall abate such nuisance within 24 hours. A violation of section 6-10, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 6-11. - Applicability of section 6-9 to commercial dog kennels.**

The provisions of section 6-9 shall apply to premises lawfully used and maintained by veterinarians and operators of commercial dog kennels only if such premises and the dogs thereon are used and kept in a negligent or unreasonable manner. A violation of section 6-11, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

### **Sec. 6-12. - Sanitation requirements for dogs.**

(a) On premises of owner. At all times, the housing and the premises for dogs kept within the corporate limits of the city shall be maintained in a sanitary manner. There shall be provided a bin or pit which shall be watertight airtight and rat proof. Feces accumulating on the premises shall be placed in the bin or pit each day, and the feces shall be removed from the premises at intervals not longer than one week. Removal may be achieved by placing the feces in two plastic bags, one inside of the other and the feces in the innermost bag, tying the bags closed and placing the bags in the refuse receptacle for pickup by the sanitation department.

(b) Off premises of owner (private property). It shall be unlawful for the owner of any dog to permit the dog to leave its feces on the property of another. A violation of section 6-12(b), or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

(c) On city property or in a street. It shall be unlawful for the owner of a dog to permit the dog to leave its feces on city property or in a city street as defined in section 2-1. When the identity and contact information of the violator can be reasonably ascertained by the city, then the city may issue a notice of violation and take enforcement action against the violator sending all notices and invoices required by section 62-3 to the violator. A violation of this section shall constitute a nuisance, which nuisance shall be abated in accordance with section 62-3.

### **Sec. 6-15. - Riding horses on public property.**

It shall be unlawful for any person to ride, lead or drive any horse, mule, donkey, pony or like animal in or upon any public park, public recreation area, public schoolgrounds or other publicly owned property within the corporate limits of the city; provided, however, that this prohibition shall not apply to the riding, leading, driving or use of such animals:

(1) In connection with the building, alteration or maintenance of such public properties; or

(2) At specific locations under the jurisdiction of and designated by the city recreation and parks commission for such use, in accordance with rules and regulations governing the use of such animals for recreation purposes, at such location promulgated by the recreation and parks commission.

A violation of section 6-15, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

### **Sec. 6-17. Restraint of dogs.**

(a) *On premises of owner.* No dog shall be left unattended outdoors unless it is restrained and restricted to the owner's property by a tether, rope, chain, fence or other device. Fencing as required in this section shall be adequate in height, construction and placement to keep resident dogs on the lot and keep other dogs and children from accessing the lot. One or more secured gates to the lot shall be provided.

- (b) *Off premises of owner.* In addition to all other penalties prescribed by law, a dog is subject to impoundment and all other applicable provisions of the county animal control ordinance if the dog is found off the premises of the person owning or having possession, charge, care, custody or control of such dog and is not under the control of a competent person and restrained by a leash, chain, rope or other means of adequate physical control.
- (c) *Penalties established.* The civil penalties for violation of this section shall be as follows:
  - (1) First violation\$ 50.00
  - (2) Second violation75.00
  - (3) Third and subsequent violations100.00
- (d) *Collection of penalty.* The animal control department is authorized to collect, at the time of redemption, an appropriate penalty if the animal was in violation of this section.
- (e) *Determination of number of violations.* For the purpose of determining how many offenses have been committed and for determining the appropriate penalty, each offense shall remain on the books of the animal control office for a period of three years. Subsequent to three years' expiration, the offenses shall be removed from the books.
- (f) A violation of section 6-17, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

Sec. 10-2. Permits, inspections and enforcement.

- (a) *Permit required; prerequisites for issuance.* No person shall commence or proceed with:
  - (1) The construction, reconstruction, alteration, repair, movement to another site, removal or demolition of any building or structure;
  - (2) The installation, extension or general repair of any plumbing system;
  - (3) The installation, extension, alteration or general repair of any heating or cooling equipment system; or
  - (4) The installation, extension, alteration or general repair of any electrical wiring, devices, appliances or equipment;

without first securing from the inspections division any and all permits required by the state building code and any other state or local laws applicable to the work. A permit shall be in writing and shall contain a provision that the work done shall comply with the state building code and all other applicable state and local laws. No permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof. If the General Statutes of the state require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit shall be issued unless the plans and specifications bear the state seal of a registered architect or of a registered engineer. When any provision of the General Statutes of the state or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor. No permit issued under G.S. 143-136 et seq. or G.S. 143-151.8 et seq. shall be required for any construction, installation, repair, replacement or alteration costing \$5,000.00 or less in any single-family residence or farm building unless the work involves the addition, repair or replacement of load-bearing structures; the addition

(excluding replacement of same size or capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning or electrical wiring, devices, appliances or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. ~~Violation of this section shall constitute a misdemeanor. A violation of this section, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.~~

- (b) *Action on permit by inspections director.* The application shall be approved, rejected or referred to the city council or the zoning board of adjustment by the inspections director within a reasonable period not exceeding two weeks from the date of the application.
- (c) *Limitations on rights granted by permit.* The issuance or granting of a permit or approval of plans or specifications shall not be deemed or construed to be a permit for or an approval of any violation of the provisions of this Code. The issuance of a permit upon approval of plans or specifications shall not prevent the inspections director from thereafter requiring the correction of errors in the plans or specifications, or from preventing building operations thereunder when in violation of this Code or of any other ordinance of the city.
- (d) *Modification of permit or plans.* If, after securing a permit, the applicant desires to alter or deviate in any manner from the terms of the application, plans or working drawings or specifications submitted at the time of securing the permit, notice of such intention shall be given to the inspections director and his written approval obtained.
- (e) *Expiration of permit; discontinuance of work.* If, after the issuance of a permit, the operations authorized thereunder are not commenced within six months after the date of the permit, or if, after the commencement of operations, the work is discontinued for a period of 12 months, such permit shall be void. Any work may not again be commenced until a new permit shall have been issued and fee paid as for the original work.
- (f) *Periodic inspections.* As the construction of the building or structure progresses, the inspections director shall make inspections as required by the state building code. All inspection fees shall be paid in advance.
- (g) *Final inspection; certificate of occupancy.* At the conclusion of all work done under a permit, the inspector shall make a final inspection, and, if he finds that the completed work complies with all applicable state and local laws and with the terms of the permit, he shall issue a certificate of compliance. No new building or part thereof may be occupied, and no addition or enlargement of an existing building may be occupied, and no existing building that has been altered or moved may be occupied, until the inspection division has issued a certificate of compliance. A temporary certificate of compliance may be issued permitting occupancy for a stated period of specified portions of the building that the inspector finds may safely be occupied prior to final completion of the entire building. ~~Violation of this section shall constitute a misdemeanor. A violation of this section, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.~~
- (h) *Stop work orders.* Whenever any building or structure or part thereof is being demolished, constructed, reconstructed, altered or repaired in a hazardous manner, or in substantial violation of any state and local building law, or in a manner that endangers life or property,

the appropriate inspector may order the specific part of the work that is in violation or presents such a hazard to be immediately stopped. The stop order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons therefor, and the conditions under which the work may be resumed. The owner or builder may appeal from a stop order involving alleged violation of the state building code, or any approved local modification thereof, to the state commissioner of insurance, within a period of five days after the order is issued. Notice of appeal shall be given in writing to the commissioner of insurance, with a copy to the local inspector. The commissioner of insurance shall promptly conduct a hearing at which the appellant and the inspector shall be permitted to submit relevant evidence, and shall rule on the appeal as expeditiously as possible. Pending the ruling by the commissioner of insurance on an appeal, no further work shall take place in violation of a stop order. Appeals from a stop order based on violation of any other local ordinance relating to building shall be taken to the local official designated by that ordinance and shall be taken, heard and decided in the same manner as prescribed in this section for appeals to the commissioner. ~~Violation of a stop order shall constitute a misdemeanor.~~ A violation of a stop order shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

In addition to other requirements of this section, there shall be a fee of \$225.00 to lift a valid stop work order.

- (i) *Additional enforcement remedies.* Whenever any violation is denominated a misdemeanor under the provisions of this chapter, the city, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct or abate the violation or to prevent the occupancy of the building or structure involved.
- (j) *Revocation of permit.* The appropriate inspector may revoke and require the return of any permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans or specifications; for refusal or failure to comply with the requirement of any applicable state and local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.
- (k) *Permit fee refund policy.* Except as provided for in chapter 10, article II, subsection 10-31(b), permit fees may be refunded prior to the first inspection on the permit. The request for refund must be received within six months of the issue date of the permit. An administrative fee of \$25.00 will be charged for each permit refunded.
- (l) Notwithstanding any other provision in this chapter to the contrary, any permit fees due under articles I, II, III, IV, and VI of this chapter resulting from the purchase of a permit by a unit of local government (as defined by G.S. 160A-460(2)), may be paid under the terms of a line of credit agreement in a form approved by the city attorney.

## **CHAPTER 10 BUILDING REGULATIONS**

### **Sec. 10-74. Violations.**

Any person, or his agent, who shall violate a provision of the mechanical code or fail to comply therewith or with any of the provisions thereof, or violate a detailed statement or plan

submitted and approved thereunder, shall be guilty of a class 3 misdemeanor, as provided by G.S. 14-4, and shall be subject to a fine of not more than \$500.00.

**Sec. 10-91. Permit required; exceptions; application.**

- (a) No person shall do or cause to be done any installation, alteration, repair or replacement of equipment or systems covered by the provisions of the mechanical code without first having obtained the proper permit as required by the mechanical code.
- (b) Any firm licensed by the state and bonded by the city may, during nonbusiness hours, proceed with necessary emergency repairs or installations. If such work would normally require a permit, the firm must apply for the permit during office hours of the next working day.
- (c) Application for a permit shall be made in person. The applicant shall furnish information as may be required to complete the application form by the mechanical inspector.
- (d) Permits shall not be required for appliances and equipment exempted by the provisions of the state mechanical code.
- (e) A violation of section 10-91, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 10-92. Drawings and specifications.**

- (a) Whenever in the opinion of the mechanical inspector drawings and specifications are needed to show definitely the nature and character of the work for which application is made under this division, the applicant shall furnish such drawings and specifications. These drawings and specifications shall be drawn to scale and submitted in duplicate. If approved, one set shall be returned to the applicant marked "approved" and one set shall be retained and filed as a permanent record in the office of the mechanical inspector. The applicant's approved set shall remain at all times on the job.
- (b) The mechanical inspector shall examine or cause to be examined each application for a permit and the drawings and specifications which may be filed therewith, and shall ascertain by such examination whether the installation indicated and described is in accordance with the requirements of the mechanical code and all other pertinent laws or ordinances.
- (c) A violation of section 10-92, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 10-94. Payment of fees prerequisite to issuance of permit; late fee for failure to obtain permit.**

- (a) No permit required under this division shall be valid until the fees prescribed in this division shall have been paid; nor shall an amendment to a permit be approved until the additional fees, if any, shall have been paid.
- (b) If any person commences any work on an installation before obtaining the necessary permit from the city, the permit fee shall be doubled.
- (c) A violation of section 10-92, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 10-111. Required; notification that work is ready for inspection; additional inspections.**

- (a) All new mechanical work and such portions of existing systems as may be affected by new work or any changes shall be inspected to ensure compliance with all the requirements of the mechanical code and to ensure that the installation and construction of the mechanical system is in accordance with approved plans.
- (b) It shall be the duty of the installer to give reasonable advance notice to the mechanical inspector when work is ready for test or inspections. It shall be the duty of the installer to make sure that the work will stand the test prescribed before giving the notice required by this subsection.
- (c) If the mechanical inspector finds that the work will not pass the test, the installer shall be required to make necessary corrections and the work shall then be resubmitted for inspection. Where additional inspections are necessary for retesting, there shall be an additional fee for each such inspection per section 10-96.
- (d) The equipment, material, power and labor necessary for the inspection and test shall be furnished by the installer.
- (e) A violation of section 10-111, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 10-112. Inspection before concealing work; final inspection; revocation of approval.**

- (a) All equipment for which a permit is obtained under the mechanical code shall be inspected and, when in compliance with the mechanical code, approved by the mechanical inspector. No portion of any equipment intended to be concealed by any permanent portion of the building shall be concealed until inspected and approved by the mechanical inspector or certified by a nationally recognized approval agency. When installation of any equipment is complete, a final inspection shall be made. No equipment regulated by the mechanical code shall be connected to the fuel or power supply and placed in normal operation until it complies with all applicable requirements of the mechanical code and a final inspection approval has been issued.
- (b) A final inspection approval may be revoked by the mechanical inspector if it is found that the heating, cooling or refrigeration equipment fails in any respect to comply with the requirements of the mechanical code so that the installation is unsafe, dangerous or hazardous to life. The mechanical inspector may accept inspection certification reports from a nationally recognized approval agency in lieu of on-site inspection when on-site inspection is impractical.
- (c) A violation of section 10-112, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 10-131. Qualifications of installers.**

Before any person shall engage in the business of installing, altering, repairing or replacing mechanical equipment, he shall be qualified as set forth in the state mechanical code. A violation of section 10-131, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 10-132. Correction of defective work.**

Any person engaged in the business of installing, altering or repairing mechanical equipment whose work does not conform to the rules and regulations set out in this article, or whose workmanship or materials are of inferior quality, shall, on notice from the mechanical inspector, make necessary changes or corrections at once so as to conform to the mechanical code. If work has not been so changed after ten days' notice from the mechanical inspector, the inspector shall then refuse to issue any more permits until such work has fully complied with the rules and regulations of the mechanical code. A violation of section 10-132, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 10-165. Penalty for violation of section 10-164.**

Any person who shall violate the provisions of section 10-164 shall be guilty of a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00, ~~and upon conviction shall be punishable as provided by law.~~

**Sec. 10-201. Refusal to permit entry by inspectors.**

It shall be unlawful for any owner or person in possession of premises on which housing is located in the city to refuse, after being presented with a warrant issued under G.S. 15-27.2, to permit the housing conservation administrator or the administrator's duly appointed agents to enter upon the premises for the purpose of making examinations as authorized by this article. Violation of this section shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 10-204. Dwellings not in compliance with order declared nuisance; occupation of placarded dwelling.**

- (a) If any order issued and served in accordance with this article is not complied with, within the time specified therein, the housing with respect to which such order has been issued is hereby declared to be a public nuisance, and it shall be unlawful for any person who has knowledge of the issuance of such order to use or occupy or to permit anyone else to use or occupy such housing or any part thereof as a human habitation. Any person violating any provision of this subsection or failing to comply therewith shall be subject to a civil penalty in accordance with section 10-210 ~~guilty of a misdemeanor.~~
- (b) It shall be unlawful for any person to use or to occupy or to permit anyone else to use or occupy as a human habitation any housing on the main entrance of which the housing conservation administrator has caused a placard to be posted declaring the building to be unfit for human habitation and stating that the use or occupancy of the building for human habitation is prohibited and unlawful. Any person violating any provision of this subsection or failing to comply therewith shall be subject to a civil penalty in accordance with section 10-210 ~~guilty of a misdemeanor.~~

**Sec. 10-205. Removal of posted complaint, notice or order.**

No person, without written consent of the housing conservation administrator, shall remove or permit the removal of any complaint, notice or order posted in accordance with the provisions of this article. Any person violating or failing to comply with the provisions of this section shall be subject to a civil penalty of \$350.00 ~~guilty of a misdemeanor.~~

### **Sec. 10-206. Occupation of unfit dwelling.**

Any person (landlord or tenant) violating any lawful ordinance of the city council or order of the housing conservation administrator to vacate and close or to demolish any residence found to be unfit for human habitation shall, upon the expiration of the date for compliance with such order or ordinance, be subject to a civil penalty in accordance with section 10-210. Any person occupying, or permitting the reoccupancy of a vacant dwelling found by the housing conservation administrator to be unfit for human habitation, without making the dwelling fit for human habitation and receiving the approval of the housing conservation administrator, shall be subject to a civil penalty in accordance with section 10-210. ~~The provisions of this section shall be in addition to any other provisions of this chapter which make violations of this article a misdemeanor.~~

### **Sec. 10-222. Refusal to permit entry by inspectors.**

It shall be unlawful for any owner or person in possession of any vacant nonresidential building or structure that appears to the conservation administrator not to be properly maintained to refuse, after being presented with a administrative search warrant as issued under G.S. 15-27.2, to permit the conservation administrator or his duly appointed agents to enter upon the premises for the purpose of making examinations as authorized by this division. Violation of this section shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

### **Sec. 10-223. Procedure for correction of nonresidential buildings or structures for occupancy.**

- (a) *Issuance of complaint; hearing.* If a preliminary investigation discloses evidence of a violation of the minimum standards, the conservation administrator shall issue and cause to be served, upon the owner and parties in interest in the vacant nonresidential building or structure, a complaint. The complaint shall state the charges and contain a notice that an administrative hearing will be held before the conservation administrator (or his or her designated agent) at a place within the city scheduled not less than ten days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the conservation administrator.
- (b) *Order.* If, after such notice and hearing, the conservation administrator determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established by the city council, the conservation administrator shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order. The order may require the owner to take remedial action, within a reasonable time specified, subject to the procedures and limitations in this division.
  - (1) *Repair or vacate and close.* The conservation administrator may cause to be served upon the owner thereof an order, requiring the owner, within the time specified in the

order, to repair, alter or improve such vacant nonresidential building or structure or to vacate and close the nonresidential building or structure for any use, if the repair, alteration or improvement of the vacant nonresidential building or structure can be made at a reasonable cost in relation to the value of the nonresidential building or structure, not to exceed 50 percent of the then-current value of the nonresidential building or structure; or

- (2) *Remove or demolish.* The conservation administrator may cause to be served upon the owner thereof an order, requiring the owner to remove or demolish the vacant nonresidential building or vacant structure if the costs of repair, alteration or improvement of the nonresidential building or structure cannot be made at a cost not to exceed 50 percent of its then-current value.

Notwithstanding any other provision of law, if the vacant nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the city council determines, after a public hearing as provided by this division, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the vacant nonresidential building or structure has not been condemned as unsafe, the order may require that the vacant nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established in this division.

- (c) *Vacant building or structure.* The conservation administrator's order shall also provide that the building or structure to which it applies shall not be occupied if it is vacant as of the date of the order unless the owner obtains from the conservation administrator a certificate of fitness for use, which shall be issued upon a finding by the administrator that the building or structure subject to the order is fit for use.

An order may not require repairs, alterations, or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering said building or structure closed for any use.

- (d) *Determination of value of building or structure.* The conservation administrator is hereby authorized to fix the reasonable value of any nonresidential building or structure for the purpose of this section, and such value shall be binding unless the owner protests such value in writing to the conservation administrator within ten days after receipt of an order. Upon such protest, the administrator shall nominate one competent and disinterested person, the protesting party shall nominate one competent and disinterested person, and the two persons so nominated shall nominate a third competent and disinterested person, and the three persons so nominated shall serve as commissioners of appraisal. The commissioners shall make their appraisal of the value of the building or structure under consideration, and shall return the appraisal to the administrator and the protesting party within ten days after their appointment, and the appraisal shall be binding and conclusive for the purpose of this

section. The costs of any such appraisal shall be paid by the protesting party to the conservation administrator at the time of filing written protest.

- (e) *Authority of administrator on owner's failure to comply with order; placarding.* If the owner fails to comply with an order to repair, alter or improve or to vacate and close the vacant nonresidential building or structure, the city council may adopt an ordinance ordering the conservation administrator to proceed to effectuate the purpose of this section with respect to the particular property or properties that the conservation administrator found to be jeopardizing the health or safety of members of the general public. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds of Forsyth County and shall be indexed in the name of the property owner or owners in the grantor index. Following the adoption of an ordinance, the conservation administrator may cause the building or structure to be repaired, altered, or improved or to be vacated and closed. The conservation administrator may cause to be posted on the main entrance of any vacant nonresidential building or structure so closed a placard with the following words: "This building is unfit for any use; the use or occupancy of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be subject to a civil penalty in accordance with section 10-229~~guilty of a Class 3 misdemeanor~~.
- (f) *Adoption of ordinance ordering repair or demolition.* If the owner fails to comply with an order to remove or demolish the vacant nonresidential building or structure, the city council may adopt an ordinance ordering the conservation administrator to proceed to effectuate the purpose of this section with respect to the particular property or properties that the conservation administrator found to be jeopardizing the health or safety of members of the general public. No ordinance shall be adopted to require demolition of a vacant nonresidential building or vacant structure until the owner has first been given the opportunity to bring it into conformity with the minimum standards established by the city council. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds of Forsyth County and shall be indexed in the name of the property owner or owners in the grantor index. Following the adoption of an ordinance, the conservation administrator may cause the building or structure to be removed or demolished.
- (g) *Order by city council after failure to repair, vacate and closed for a period of two years.* Whenever the city council has adopted an ordinance or the conservation administrator has issued an order ordering an building or structure to be repaired or vacated and closed pursuant to the provisions of this division, and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, the city council may make findings that the owner has abandoned the intent and purpose to repair, alter or improve the vacant nonresidential building or structure and that the continuation of the vacant nonresidential building or structure in its vacated and closed status would be inimical to the health, safety and welfare of the city in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the city council may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

- (1) If the cost to repair the vacant nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to 50 percent of its then-current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days; or
- (2) If the cost to repair the vacant nonresidential building or structure to bring it into compliance with the minimum standards exceeds 50 percent of its then-current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order for a period of five years before the city council may take action under this subsection on the basis set forth in paragraphs (1) and (2) above. The ordinance shall be recorded in the office of the register of deeds in Forsyth County wherein the property or properties are located and shall be indexed in the name of the property owner or owners in the grantor index. If the owner fails to comply with the ordinance, the conservation administrator shall effectuate the purpose of the ordinance.

- (h) *Payment of costs of work done by city.* The cost of such repairs, alterations, improvements, vacating and closing, including removal, demolition, grading, filling, seeding, or securing and making the vacant nonresidential building or structure safe by the conservation administrator shall be a lien in the nature of a special assessment against the real property upon which such cost was incurred. If the real property upon which the cost was incurred is located within the city limits, then the amount of the cost is also a lien on any other real property of the owner located within the city limits except for the owner's primary residence. The additional lien provided in this subsection is inferior to all prior liens and shall be collected as a money judgment. If the vacant nonresidential building or structure is removed or demolished by the conservation administrator, he shall offer for sale the recoverable materials of such vacant nonresidential building or vacant structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the conservation administrator, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the persons found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the city council to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.
- (i) *Cancellation or reduction of demolition and other remediation liens in limited circumstances.*
  - (1) The city manager may authorize the reduction or cancellation of the amount of the cost of repairs, alterations, or improvements; vacating and closing; securing, or removal or demolition, or other remediation by the administrator which is a lien against the real property upon which the cost was incurred as provided for in this article, or other appropriate provisions of law, in the following circumstances:
    - a. When the owner of the property completes construction of a dwelling on the property to be used for affordable housing. The owner must also obtain and provide a

- certificate of compliance required by this article and agree to execute a declaration of restrictive covenant conditions limiting the use of the property for this purpose for a period of no less than 30 years commencing with the date the certificate of compliance is issued under this article or certificate of occupancy is issued by the city/county inspections department, whichever occurs last.
- b. When the owner of the property conveys the property subject to the lien to a person who completes construction of a dwelling on the property to be used for affordable housing, completion of construction shall be evidenced by a certificate of compliance issued by the city/county inspections department.
- (2) The city council may, in its discretion, reduce or cancel the cost described in this subsection, when the cost is past due, the owner offers to convey the property to the city and the city council agrees to accept the deed to the property in payment of the cost.
  - (3) The city manager shall establish a policy to implement this subsection. The policy shall define "affordable housing," and contain criteria for which owners may apply for the reduction or cancellation of a lien under this subsection. The policy shall include other provisions designed to effectuate the purposes of this subsection. Such other provisions may include time limits for completion of construction of the dwelling, descriptions of covenants to be incorporated in the title to property conveyed to ensure it will be used for affordable housing; and requirements that a lien be in effect for a specified period of time before the manager will consider reducing or canceling a lien under this subsection. For each instance of exercising the authority to reduce or cancel a lien under this subsection, the city manager shall make a record of the reasons why such action is appropriate.
- (j) *Order to occupant to vacate nonresidential building or structure; ejectment.* If any occupant fails to comply with an order and ordinance to vacate a nonresidential building or structure, the conservation administrator may file a civil action in the name of the city to remove such occupant. The action to vacate the nonresidential building or structure shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying such nonresidential building or structure. 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 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 conservation administrator produces a certified copy of an ordinance adopted by the governing body pursuant to subsection (e) and (f) of this section authorizing the officer to proceed to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the nonresidential building or structure 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 under this subsection 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 nonresidential building or structure who is a tenant of the owner may not

be in the nature of a summary ejectment proceeding pursuant to this subsection unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the governing body has ordered the conservation administrator to proceed to exercise his duties as set forth in subsections (e) and (f) of this section to vacate and close or remove and demolish the nonresidential building or structure.

(k) *Service of complaints or orders.*

- (1) Complaints or orders issued by the conservation administrator or ordinances adopted pursuant to this division shall be served upon persons either personally or by certified mail so long as the means used are reasonably designed to achieve actual notice. When service is made by certified mail, a copy of the complaint, order or ordinance may be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is returned unclaimed or refused, but the regular mail is not returned by the post office within ten days after mailing. If the regular mail is used, a notice of the pending proceeding or ordinance shall be posted in a conspicuous place on the premises affected.
- (2) If the identity of any owner or the whereabouts of any owner is unknown and cannot be ascertained by the conservation administrator in the exercise of reasonable diligence, and the conservation administrator makes an affidavit to that effect, then the serving of the complaint, order or ordinance upon the owner(s) or other person(s) may be made by publishing the complaint, or order or ordinance at least once no less than ten days but no more than 30 days prior to hearing, and for orders and ordinances at least once no less than ten days but no more than 30 days after the issuance of the order or adoption of the ordinance in a newspaper having general circulation in the city. A copy of such complaint, order or ordinance shall be posted in a conspicuous place on the premises affected.

(l) *Appeals.*

- (1) The board of adjustment shall hear and determine appeals from any decision or order of the conservation administrator. An appeal from any decision or order of the conservation administrator is a quasi-judicial matter and may be taken by any person aggrieved thereby or by any officer, board or commission of the city. Any appeal from the conservation administrator shall be taken within ten days from the rendering of the decision or service of the order, and shall be taken by filing with the conservation administrator and with the board of adjustment a notice of appeal, which shall specify the grounds upon which the appeal is based and by paying any filing fees assessed pursuant to the ordinances, and rules applicable to the board of adjustment. Upon the filing of any such notice of appeal, the conservation administrator 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 conservation administrator refusing to allow the person aggrieved thereby to do any act, the decision shall remain in force until modified or reversed. When any appeal is from a decision of the conservation administrator requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the board, unless the administrator certifies to the board of adjustment, after the notice of appeal is filed with the officer, that, by reason of the facts stated in the

certificate (a copy of which shall be furnished the appellant), a suspension of the requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the conservation administrator, by the board, or by a court of record upon petition made pursuant to subsection (4) of this subsection.

- (2) The board of adjustment shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board of adjustment may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision or order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the conservation administrator, but the concurring vote of four-fifths of the members of the board shall be necessary to reverse or modify any decision or order of the conservation administrator. The board of adjustment shall have power also in passing upon appeals, in any case where there are unnecessary hardships in the way of carrying out the strict letter of this division, to adapt the application of this division to the necessities of the case to the end that the spirit of this division shall be observed, public safety and welfare secured, and substantial justice done.
  - (3) Every decision of the board of adjustment shall be subject to review by the superior court by proceedings in the nature of certiorari instituted within 15 days of the decision of the zoning board of adjustment, but not otherwise.
  - (4) Any person aggrieved by an order issued by the conservation administrator or a decision rendered by the board of adjustment may petition the superior court for an injunction restraining the administrator from carrying out the order or decision, and the court may, upon such petition, issue a temporary injunction restraining the administrator pending a final disposition of the cause; provided, however, that such 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 any such petition within 20 days and shall be given preference over other matters on the court's calendars. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require; provided, however, that it shall not be necessary to file bond in any amount before obtaining a temporary injunction under this subsection (4).
  - (5) In case any nonresidential building or structure is erected, constructed, altered, repaired, converted, maintained or used in violation of this division or of any ordinance adopted under authority of this division or any valid order or decision of the conservation administrator or board of adjustment made pursuant to this division, the conservation administrator or board of adjustment may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration or use, to restrain, correct or abate such violation or to prevent any illegal act, conduct or use in or about the premises of the nonresidential building or structure.
- (m) *Additional powers of administrator.* The conservation administrator is hereby further authorized to exercise such powers as may be necessary or convenient to carry out and

effectuate the purpose and provisions of this division, including the following powers in addition to others granted in this division:

- (1) To investigate vacant nonresidential building and structures in the city to determine whether they have been properly maintained in compliance with the minimum standards so that the safety or health of the members of the general public are not jeopardized.
- (2) To administer oaths and affirmations, examine witnesses and receive evidence;
- (3) To enter upon premises pursuant to section 10-217 for the purpose of making examinations in a manner that will do the least possible inconvenience to the person(s) in possession.
- (4) To appoint and fix the duties of such officers, agents and employees as necessary to carry out the purposes of this Code as adopted by the city council.
- (5) To delegate any of his or her functions and powers under this division to such officers and agents as he or she may designate.

**Sec. 10-224. Removal of posted complaint, notice or order.**

No person, without written consent of the conservation administrator, shall remove or permit the removal of any complaint, notice or order posted in accordance with the provisions of this division. Any person violating or failing to comply with the provisions of this section shall be subject to a civil penalty of \$500.00 ~~guilty of a misdemeanor~~.

**Sec. 10-242. Permits and inspections.**

- (a) *Scope of inspections.* The term "inspection," as used in this section, shall mean the necessary scrutiny and checking of a wiring installation to determine whether or not the installation has been made in conformity with state and local laws governing wiring installations and materials. The inspector shall have and use the necessary instruments and tools for testing each installation as to insulation, continuity, polarity, etc.
- (b) *Permit required; exceptions.* No electrical wiring, devices, appliances or equipment shall be installed within or on any building, structure or premises, nor shall any alteration or addition be made in any such existing wiring, devices, appliances or equipment, without securing a permit therefor and having an inspection thereof made by the electrical inspector, except as stated in subsections (b)(1) and (2) of this section.
  - (1) No permit shall be required for minor repair work, such as replacement of lamps, or the connection of portable devices to suitable receptacles which have been permanently installed.
  - (2) No permit shall be required for the installation, alteration or repair of electrical wiring, devices, appliances and equipment installed by or for an electrical public service corporation for the use of such corporation in the generation, transmission, distribution or metering of electrical energy, or for the use of such corporation in the operation of signals or the transmission of intelligence.
- (c) *Work by property owner.* Any person may be permitted to perform electrical work upon his own property, except property intended for rent, sale or gift, provided he first makes

application for and obtains a permit from the electrical inspector to do the specific work contemplated, provided the applicant satisfies the electrical inspector that he is competent to perform the work for which a permit is requested in a manner which will meet the statutory and ordinance requirements. If so satisfied, the electrical inspector shall issue a permit to the applicant personally to perform the particular work for which application was made. Such permit shall extend to the applicant only and shall not authorize the applicant to employ the services of any other person to assist him unless such other person is a qualified contractor. The permit granted the applicant shall automatically expire upon completion of the work for which application was made and the permit issued. All work done under such permit shall be subject to regular electrical inspection requirements and fees, and shall be required to satisfy all statutory and ordinance requirements and regulations applicable to such work.

- (d) *Eligibility for permit.* No permit, except a personal permit as outlined in subsection (c) of this section, for the installation or alteration of any electric wiring, devices, appliances or equipment, shall be issued to any person unless such person is the holder of an electrical contractor's license issued by the state board of examiners of electrical contractors.
- (e) *Inspection before concealing work.* When any part of a wiring installation is to be hidden from view by the permanent placement of parts of the building, the person installing the wiring shall notify the electrical inspector, and such parts of the wiring installation shall not be concealed until they have been inspected and approved by the electrical inspector.
- (f) *Final inspection.* Upon completion of any installation for which a permit and inspection is required, it shall be the duty of the person installing the installation to notify the electrical inspector, who shall inspect the installation within 24 hours of the time such notice is given or as soon thereafter as practicable.
- (g) *Issuance of certificate of approval.* Where the electrical inspector finds the installation to be in conformity with the provisions of the public safety laws of the state governing electrical wiring installations and materials of this chapter, he shall issue a certificate of approval in duplicate, one for the utility furnishing the electrical service and one for the property owner.
- (h) *Expiration or revocation of certificate of approval; preliminary certificate of approval.* When a certificate of approval is issued authorizing the connection and use of temporary work, such certificate shall be issued to expire at a time to be stated therein and shall be revocable by the electrical inspector for cause. A preliminary certificate of approval may be issued authorizing the connection and use of certain specific portions of an incompletd installation; such certificate shall be revocable at the discretion of the electrical inspector.
- (i) A violation of section 10-242, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

## **CHAPTER 14 CEMETERIES**

### **Sec. 14-7. Purchase and sale of lots for speculative purposes prohibited; rights of city regarding use of lots.**

- (a) All sales of lots, portions of lots or single graves are sold for the sole and only purpose of interment of the purchaser or members of his immediate family. The purchase or sale thereafter for speculative purposes is expressly prohibited.

- (b) The city expressly reserves the right to use any lot or portion of lot for an interment service or erection of a memorial for an adjacent lot, including the right of passing over and standing on any lot and the transportation of necessary cemetery equipment.
- (c) A violation of section 14-7, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-16. Authorization of transfer of lot; right of city to repurchase lot.**

The transfer of any lot, portion of lot or single gravesite is expressly prohibited unless the cemeteries supervisor specifically authorizes such transfer in writing. In the event of any transfer, the transferor shall make full disclosure to the city as to his dealings with the transferee for such lot, portion of lot or single gravesite. All outstanding indebtedness against such a lot and the usual charge of the city for having such transfer or assignment made are to be paid. A fee of \$30.00 shall be charged for each such transfer or assignment. The city reserves the right to purchase from the owner, at the current price, any unused lot, providing it is sellable, and shall have the right to dispose of the lot so purchased at current prices. The cemeteries supervisor will determine whether a lot is sellable when reviewing a request to repurchase. A violation of section 14-16, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-17. Lots not to be sold for purpose of resale.**

Lots will not be sold to funeral directors or any person for resale. A violation of section 14-17 shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-21. Written consent required to make alterations in lots.**

It shall be unlawful for any lot owner to make any change or alteration in any lot, including the removal or change in position of any memorial of any kind, without the written consent of the city, and if so made the city will restore such lot to its former condition without notice and at the expense of the owner of such lot. A violation of section 14-21, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-22. Enclosures, walks or corner markers on lots.**

- (a) No coping, curbing, fencing, hedging, border or enclosure of any kind will be allowed around any lot, and no walks of brick, cinders, tile, stone, marble, terracotta, sand, cement, gravel, wood or other material will be allowed on any lot or single grave. The city reserves the right to remove such installations if so erected, planted or placed.
- (b) No corner post or corner markers of any kind are permitted on any lot or single grave within the cemetery, except numbered corner posts furnished and set by the city.
- (c) Walls, chains or any other types of enclosure, by whatever name called, around any lot or grave are prohibited.
- (d) A violation of section 14-22, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-23. Benches, sundials or urns.**

Benches or settees, sundials and urns are not allowed or permitted on any lot except those specifically designated for such use, and then must be located where the cemeteries supervisor directs in writing. A violation of section 14-23, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-24. Placing articles on lots generally; artificial flowers and wreaths.**

After floral offerings are removed following interment, it shall be unlawful for any person to place anything on any lot or grave, with the exception of a memorial erected in accordance with the rules and regulations of this chapter, or cut flowers placed in flower vases approved by the cemeteries supervisor and approved flags on graves of soldiers, sailors or marines. Artificial wreaths may be used at Christmas but shall be removed by February 1 following Christmas. Potted plants may be used at Easter and Christmas. Flowers placed on a gravesite but not in permanent vases or attached to a monument will be removed within two weeks of any holiday during mowing season. When flags, flowers or wreaths become wilted, unsightly or interfere with routine cemetery maintenance, they shall be immediately removed. A violation of section 14-24, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-25. Vases on graves.**

Only approved flower vases may be placed on a grave, and only one vase to each grave. A violation of section 14-25, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-26. Placing trinkets or unsightly items on graves.**

No trinkets, toys, shells, artificial flowers, glass vases, fruit jars, pickle jars, tin cans, sand, artificial material or anything which, in the opinion of the city, is unsightly will be allowed on any lot or single grave. All such articles, materials and things will be removed without notice, and the city shall not be responsible for their loss or destruction. A violation of section 14-26, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-27. Persons entering or leaving cemetery to use gates.**

It shall be unlawful for any person to enter or leave the cemetery grounds except through an open gate. A violation of section 14-27 shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-28. Hours when persons permitted in cemetery.**

It shall be unlawful for any person, except an employee of the city, to be on the cemetery grounds when the gates are closed, without the express written permission of the cemeteries supervisor. A violation of section 14-28, or any part thereof, shall constitute a class 3

misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 14-29. Certain persons and things prohibited in cemetery.**

The following persons and things are forbidden to enter or be carried onto the cemetery grounds and are subject to be removed or ejected therefrom:

- (1) *Children under 12 years of age.* Children under 12 years of age unless attended by an adult person responsible for their conduct.
- (2) *Delivery trucks, wagons and vehicles.* Delivery trucks, wagons and vehicles, or any conveyance generally used for hauling goods or chattels, except city vehicles delivering to the cemetery, flower trucks bringing flowers for an interment or to be placed on a grave, and trucks of a licensed memorialist.
- (3) *Persons passing through cemetery without business.* Persons passing through the cemetery, except for the bona fide purpose of visiting a grave or lot, or to attend to cemetery business matters with an authorized representative of the city.
- (4) *Persons carrying firearms.* Persons carrying firearms, except officers of the law or members of a military detail in attendance upon an interment.
- (5) *Unauthorized items or material.* Material of any description, except cut flowers, wreaths and potted plants at times permitted.
- (6) *Bicycles and motorcycles.* Bicycles and motorcycles, unless a special permit is first issued therefor by an officer or the cemeteries supervisor. This shall not apply to motorcycle police officers.
- (7) *Intoxicating liquors or soft drinks.* Any intoxicating liquors or soft drinks.
- (8) *Dogs.* Dogs, whether under leash or in an automobile.
- (9) A violation of section 14-29, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 14-30. Prohibited acts generally.**

The following acts are not permitted in or on the cemetery grounds:

- (1) *Picnicking, lunching, etc.* Picnicking, lunching, camping, hunting, gathering berries, fruits or nuts, running, romping, playing, loitering, lounging, or lying full length or sitting on the ground.
- (2) *Cutting, picking and pulling flowers, branches, etc.; defacing monuments, buildings or other property.* Cutting, picking or pulling flowers or plants, whether cultivated or wild; breaking branches from any shrub or tree; scratching, marring, defacing, injuring or disturbing any monument head or foot stone, building or other thing being a part of or placed or used in connection with the cemetery grounds or any lot, pathway, street or roadway therein.

- (3) *Depositing paper, rubbish, etc.* Putting or depositing paper, rubbish, dead or wilted flowers, shrubs, plants, branches or any unsightly or unseemly thing on any lot, walk, drive or other part of the cemetery, except in receptacles provided for that purpose.
- (4) *Sitting or climbing on markers or other fixtures.* Sitting or climbing on a marker, monument, mausoleum or fixture of any kind.
- (5) *Peddling, begging, etc.* Peddling, begging, soliciting or collecting.
- (6) *Display or distribution of signs, handbills, etc.* The display or distribution of signs, cards, handbills, circulars or anything relating to any business, profession, office or other matter.
- (7) *Playing games.* Children and adults shall not play at games or otherwise on the cemetery property.
- (8) *Placing flowers or other items in preservatives or under enclosures.* The placing of flowers, floral or other designs and things in alcohol or other preservatives, or under glass or other enclosures.
- (9) *Fishing, hunting, etc.* Fishing, hunting, trapping, molesting or killing of any birds, waterfowl or game of any kind.
- (10) *Scattering of cremated remains.* Scattering of cremated remains on cemetery grounds.
- (11) A violation of section 14-30, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 14-31. Operation of vehicles.**

The following vehicle operations are prohibited:

- (1) *Driving vehicles in excess of ten miles per hour.* The driving of motorcars or other vehicles through the gates or on the cemetery grounds at a speed in excess of ten miles per hour.
- (2) *Driving vehicles across graves, lots or lawn.* Driving any motorcar or vehicle across or upon any grave, lot, lawn or parking, or leaving the vehicle thereon. Any vehicle thus improperly parked shall be subject to removal and impoundment at a lot designated by the city police department. The owner or person claiming to be entitled to reclaim the vehicle shall not be permitted to reclaim the vehicle until that person has paid all administrative costs, towing fee, and storage fee.
- (3) *Parking vehicles so as to create obstruction.* Parking or leaving any motorcar or vehicle on any area within the cemetery grounds at such location or in such position as to prevent any other car or vehicle from passing the vehicle. Any vehicle thus improperly parked shall be subject to removal and impoundment at a lot designated by the city police department. The owner or person claiming to be entitled to reclaim the vehicle shall not be permitted to reclaim the vehicle until that person has paid all administrative costs, towing fee, and storage fee.
- (4) *Making reverse turns.* Making a complete or partial reverse turn of any motorcar or vehicle on any road or driveway within the cemetery grounds. Motorcars and vehicles

must continue forward to the next intersection of the drive before changing the direction of progress.

(5) A violation of section 14-31, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$50.00.

**Sec. 14-35. Funeral parties to leave before graves closed.**

Funeral parties shall leave before the grave is closed, unless permission is obtained from the cemeteries supervisor or his representative before the interment. A violation of section 14-35, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-36. Certificate of ownership or contract for purchase prerequisite to opening of grave.**

No grave will be opened on any lot without there being presented a certificate of ownership or proof of ownership, except in cases of the first grave, and then only when a proper note and contract have been made. A violation of section 14-36, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-37. Written order from lot owner required for opening grave.**

No grave will be opened on any lot unless written order therefor shall be properly executed by the lot owner or his representative authorized by such owner in writing. If the person who purchased the lot is deceased, such order may be executed by the surviving spouse of such deceased person, or, if no surviving spouse, by any heir at law of such deceased person. The city shall not be liable for any action taken by it in compliance with such an order signed by any such person. Verbal or telephone orders for opening graves will not be accepted. A violation of section 14-37, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-40. Supervision and control of interments; opening or closing of graves by unauthorized persons prohibited.**

- (a) The cemeteries supervisor shall exercise supervision and control of all interments, and the actual work to be done in connection therewith, including the location of all graves in order that the lot owner may get the maximum use of a lot.
- (b) It shall be unlawful for any person to open or close a grave, except an employee of the city who has been authorized to do so by the cemeteries supervisor.
- (c) The city reserves the right to furnish all interment equipment.
- (d) A violation of section 14-40, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-43. Interments not to be made on Christmas day, on Sundays, or after 4:30 p.m.**

- (a) No interment will be made or grave opened on any Sunday, on Christmas day, before 8:00 am or after 4:30 p.m. except in case of death from contagious or infectious disease or where the condition of the remains is such that the director of the county health department advises in writing that an interment is necessary as a health measure.
- (b) Any service scheduled after 3:00 p.m. or expected to arrive at the cemetery after 4:00 p.m. will be charged an additional fee of \$200.00. If the service is concluded by 4:30 p.m., the additional fee will be refunded by city check to the purchaser.
- (c) A violation of section 14-43, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-44. Only one interment to be made in same grave; exceptions.**

- (a) Only one interment shall be made in a single grave, and not more than one person shall be interred in a single grave, except a mother and infant interred in a single casket, two infants or children interred in a single casket, two infants or children interred in separate caskets so that both caskets fit end to end within an adult grave space, one person and one cremation urn interred in a single casket, or four cremation urns in one grave, provided the adult grave is divided into four equal sections lengthwise and only one urn is interred in each section, provided however, for each exception, that no other regular interment has taken place.
- (b) In the event that more than one cremation urn is interred in a single grave, only a flat marker may be used for each interment. A single marker may be allowed to mark two adjoining cremation spaces if within compliance of subsection 14-105(g). A single marker may be allowed to mark a single grave containing more than one individual.
- (c) In time of dire emergency such as flood, fire, explosion or other catastrophe, upon recommendation of the health officer or secretary of the state board of health, group or mass interments of unidentified bodies will be permitted, but the city reserves the exclusive right to control such interments, the place of interment thereafter and the erection of memorials, and the heirs, executors, administrators or next of kin of persons so interred shall be bound by all of the rules and regulations of the city with reference to all matters now or hereafter adopted.
- (d) A violation of section 14-44, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-45. Interments to be made in presence of representative of city.**

No interment shall be made except in the presence of an authorized representative of the city. A violation of section 14-45 shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-49. Taking pictures at interment.**

The making of pictures at an interment or immediately afterwards will be permitted only by a member of the family of the person interred or his duly authorized agent. The city reserves the right to permit pictures of a grave or lot to be made at any other time. A violation of section 14-

49, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-50. Lot owner not to have body interred for remuneration.**

No lot owner shall have the right to have a body interred within the bounds of his lot for any remuneration, sale or hire of space, and whenever required the cemetery may require an affidavit verifying the facts as stated. A violation of section 14-50, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-52. Remains to be encased in casket and outside box or vault or in urn.**

No interment shall be permitted except when the remains are encased in a casket and outside liner or vault, or in an urn. No wooden liners or wooden vaults will be permitted. An urn vault is required only with any urn made of wood or other biodegradable material. Any vault, outside liner or urn used must be approved by the cemeteries supervisor and must meet industry standards of acceptability. A violation of section 14-52, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-53. Written permission required for disinterment; payment of costs of disinterment.**

No remains shall be disinterred without the written permission of the executors, administrators or next of kin of all persons interred in a single grave, which in any event shall be done by the city at the cost of the persons having the remains disinterred, which must be paid in advance; provided, however, the provisions of this section shall not apply to cases where remains are disinterred because of failure to pay charges due the cemetery, or when an order for disinterment is made by a court of competent jurisdiction. A violation of section 14-53, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-54. Work by unauthorized persons prohibited.**

It shall be unlawful for any person, except employees of the city authorized by the cemeteries supervisor to do so or monument dealers holding a permit or persons having a contract with the city, to be allowed to do any work within the cemetery. A violation of section 14-54, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-55. Mounds on graves.**

Mounds are not permitted on any grave in any cemetery; provided, that this section shall not apply to sections 1 through 15, being the old portion of Woodland Cemetery. A violation of section 14-55, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-56. Planting trees, flowers or other plants.**

It shall be unlawful for any lot owner to plant any tree, flower or shrub or sow seed of any kind or have such things planted or sown on his lot without approval of the city. The city has the

exclusive right and privilege of doing this. Any planting or sowing done within the cemetery in violation of this section will be immediately removed without notice. A violation of section 14-56, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-57. Pruning trees.**

It shall be unlawful for any person to trim or prune or remove any branch from any tree in the cemetery, whether on his lot or not. The city may do any pruning it may consider advisable. A violation of section 14-57, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-59. Bringing in, destroying or removing sod, seed, soil, fertilizer or tools.**

It shall be unlawful for any person, not authorized by the city, to bring into, destroy or remove from the cemetery any sod, seed, soil or fertilizer, spades, shovels, saws or tools. A violation of section 14-59, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-60. Removing plants, flowers or cuttings.**

It shall be unlawful for any person, not authorized by the city, to take, remove or destroy any plant, flower or cutting from the cemetery. A violation of section 14-60, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-92. Certificate of ownership of lot prerequisite to placement on lot.**

No monument, mausoleum or marker may be placed in the cemetery unless and until the lot on which it is to be erected has been paid for in full and a certificate of ownership issued therefor. A violation of section 14-92, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-94. Permit required for construction of monument; supervision of work.**

Before beginning any work to place monumental construction, the dealer or employee thereof must contact the cemeteries supervisor and procure his express permission, and when the permission is given all work must be done under his or his designee's immediate supervision. The granting of permits rests solely with the cemeteries supervisor and his decision shall be final. No permit to begin work will be given unless and until the design of a memorial has been approved by the city as provided for in this article. A violation of section 14-94, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-95. Permit, bond and insurance for persons installing monuments or other memorials.**

No monument, marker, bench, sundial, urn, or mausoleum may be set or moved in the cemetery except by a person holding a permit from the cemetery to do such work, and no permit will be given until satisfactory evidence is furnished that the applicant has complied with the laws with reference to monument dealers and is qualified to perform the work for which

employed. A permit will be revoked at any time for violation of the cemetery rules, or for other reasons satisfactory to the cemeteries supervisor. The city may require of any dealer a bond or liability insurance indemnifying the cemetery and the public from any negligence, or guaranteeing faithful performance of contracts for construction. The fee for the permit as required by this section shall be \$75.00. A violation of section 14-95, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-96. Placing monuments on transferred portion of lots.**

When a lot is transferred no monument shall be placed on the transferred portion, or the untransferred part unless the divided portions are of such dimension and location as to permit a monument in accordance with the rules and regulations of this article and at the time of transfer the city gives its written permission for the erection of a monument. A violation of section 14-96, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-97. Approval of design, inscription and location.**

Designs, sizes, materials, inscriptions and locations for all monuments, markers and mausoleums, accompanied by a blueprint or scale drawing and a copy of the inscription to be used thereon, must be first submitted to the cemeteries supervisor and, before any monument, marker or mausoleum is brought into or set in the cemetery, the design, size, material, location and inscription must be approved by the cemeteries supervisor. The city reserves the right to disapprove the design or specifications of any monument or mausoleum that does not meet specifications set forth in this code or that may be deemed offensive to the general public. A violation of section 14-97, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-98. Material; general requirements for markers.**

No marker, monument, mausoleum or memorial shall be erected of any other material except monumental granite, marble, or bronze, of recognized highest grade, containing no discoloration, flaws or weak spots. The use of monumental stone unless cut and dressed as a monument or marker is prohibited. Before being set, the marker, monument, mausoleum or memorial must be examined and approved by the cemeteries supervisor. A violation of section 14-98, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-99. Height of bases of monuments; erection of foundations.**

All bases of monuments must be of sufficient height so that when erected they shall show a level exposure regardless of the contour of the land. All foundations for any type of memorial shall be erected by the cemetery. The charges for erection shall be paid in advance. A violation of section 14-99, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-100. Manner of setting monuments.**

All monuments must be set in a plastic bed of cement and must be jointed together with a plastic layer of cement covering the entire joint. The joint shall then be raked out a distance of three-fourths inch and rejointed with white cement. A violation of section 14-100, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-101. Boulder and semi boulder type monuments or markers prohibited.**

Boulder or semi boulder types of monuments or markers are prohibited. A violation of section 14-101, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-102. "No monument" lots; markers in sections designated for urns.**

No monument shall be allowed on any lot designated for urns or as a "no monument" lot as shown on a map on file in the office of the cemeteries supervisor. All markers in the section for urns or single graves shall be flat and installed as per subsection 14-105(f). A violation of section 14-102, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-103. Graves or lots not to be marked except with approved monument or markers.**

No grave or lot may be marked except with a monument or marker according to the provisions of this article. A violation of section 14-103, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-104. Application for placement.**

No memorial may be brought into the cemetery unless and until duplicate written applications, signed by the owner and a monument dealer holding a permit, on forms prescribed, are filed with the city and written approval of the memorial has been granted by the cemeteries supervisor. All information requested on the forms or by this chapter must be furnished, and, after approval, payment of charges for erection of the foundation shall be paid in advance, and no memorial shall be brought into the cemetery grounds until the dealer has been notified that the foundation is ready. Monument dealers are required to inspect the lot and study the size, location and contour of the lot and surrounding lots and monuments before making application, and to certify such fact in the application and that the proposed memorial complies with all the rules and regulations of the cemetery. A violation of section 14-104, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-105. Number and dimensions of monuments and markers generally.**

- (a) Only one monument shall be allowed on a lot, and only one marker shall be allowed to each grave. Identifying information may appear on both the monument and any marker placed on a grave. No urn, vase or other object will be allowed on a single grave except flower vases approved by the cemetery. This rule applies to the lot as originally platted, and does not allow monuments on a fraction of the lot or combinations or more than one lot.

- (b) On any lot where a monument is permitted, having an area of less than 400 square feet (12 grave spaces) the monument shall not exceed 3½ percent of the area of the lot and the construction must be within the following limitations: Base length, five feet five inches; base width, one foot six inches; overall monument height 42 inches. Where the area is 400 square feet or greater, the monument shall not exceed 4½ percent of the area and construction must be within the following limitations: Length, seven feet; width, two feet six inches; height, six feet.
- (c) The dimensions set out in subsection (b) of this section are maximum dimensions and do not vary the requirements that all designs and sizes must be approved by the cemeteries supervisor, and the express reservation is made that on any lot a smaller size memorial may be required by the city. On lots larger than 400 square feet a differential as to size of monument in proportion to the size of the lot may be granted.
- (d) In the section reserved for single urns, markers no larger than 12 inches by 24 inches shall be allowed on each cremation grave except to allow for a permanently-mounted vase.
- (e) In the section reserved for family plots, markers no larger than 12 inches by 24 inches shall be allowed on each grave.
- (f) All markers for urn plots shall be placed a maximum of one inch above the ground. The cemeteries supervisor must be contacted prior to placing any markers.
- (g) On graves that have more than one urn interred, either a single marker shall mark all urns, or each urn shall be marked by its own marker. The maximum size of any marker placed on a grave containing more than one interred urn shall be 12 inches by 24 inches.
- (h) In the section reserved for single graves, markers no larger than 12 inches by 24 inches shall be allowed on each grave except to allow for a permanently-mounted vase.
- (i) A violation of section 14-105, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-106. Marking graves generally.**

No grave shall be marked with any memorial except a marker. A violation of section 14-106 shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-107. All graves to have permanent markers; fee for markers provided by city.**

- (a) It shall be required that all graves, including urn graves, must have a permanent marking.
- (b) There shall be added to the burial fee such charge as may be provided by the city council for a marker, made of material as required by this article, to be provided by the city; provided, however, that the owner will have three months in which to provide a suitable marker or monument. He must present evidence to the city that the grave has been marked or that he has signed a contract for such marker or monument. If such evidence is present, this fee will be returned to the owner; however, if the grave is not marked at the expiration of three months, the city will provide a suitable marker made from material as required by this article, and the fee will not be refundable.

- (c) The city shall also provide for the sale and installation of monuments. Such monuments will not be placed until full payment for the purchase and installation of the monument has been received by the city.
- (d) The charge for purchase and installation of the marker to be furnished by the city as required by this section shall be cost plus 50 percent. The charge for the purchase and installation of monuments to be furnished by the city shall be cost plus 50 percent. Extras including borders, polishing, special art work, vases, etc. shall be cost plus 15 percent.
- (e) A violation of section 14-107, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-108. Location to be determined by city.**

The location of markers, monuments, mausoleums, benches, urns, sundials and other memorials shall be determined by the cemeteries supervisor and when located shall not be removed except on written approval of the cemeteries supervisor. A violation of section 14-108, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-109. Number of markers on grave.**

Only one marker may be placed to any one grave. A violation of section 14-109 shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-110. Location of marker on grave.**

Markers must be placed at the end of the grave farthest from the monument or place assigned for a monument. A violation of section 14-110, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-111. Markers on same lot to be of same material and design.**

All markers on a lot must be of the same material and design, except as provided in section 14-118. A violation of section 14-111, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-112. Placement of markers; top dimensions of markers.**

All markers must be placed flush and set with the slope of grade with dimensions two feet by one foot on top, except, where markers have already been placed on a lot, then with the written approval of the cemeteries supervisor additional markers may be placed which conform in size, shape and color to the first marker placed on the lot, except as otherwise provided in this article. Regardless of the former type erected, all markers must be flush with the ground. A violation of section 14-112, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-113. Markers on children's graves.**

Markers on children's graves must be in proportion to the dimensions of the grave. A violation of section 14-113, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-114. Bronze markers.**

Bronze markers of the design and quality approved by the city may be placed in no monument sections, subject to rules and regulations adopted by the city council. A violation of section 14-114, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-115. Approval of plans and specifications for mausoleums.**

No mausoleum shall be erected until plans and specifications have been approved in writing by the cemeteries supervisor. A violation of section 14-115, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-116. Area required for erection of mausoleum.**

No mausoleum may be erected except on a plot specifically designated for a mausoleum and of sufficient size to allow a minimum 15-foot buffer around the completed structure. A violation of section 14-116, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-117. Mausoleum to be set back from reservation line.**

Every mausoleum must be set back at least 15 feet from the reservation line. A violation of section 14-117, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-118. Design, materials and location of mausoleums.**

- (a) The material of every mausoleum must be granite of good quality. The foundation must be not less than six feet deep or less than two feet thick in the outside walls, and the stone of the walls 12 inches and the roof eight inches. The superstructure must be not less than 12 inches thick at any joint and must be of sufficient size to reduce, as far as possible, the number of exposed masonry joints. The roof must be supported and anchored to the walls of the building without requiring intermediate supports. All metalwork must be of bronze of standard quality. A complete system of ventilation must be provided. The crypts must each be completely enclosed independently of the walls of the building and so arranged that each can be hermetically sealed after a body is placed therein. An air space must be provided between the crypts and the walls of the building.
- (b) The selection of the position on the lot must be made with a proper regard for the relation of the mausoleum to the adjacent lots and monuments and for general appearance of the grounds, and must meet the written approval of the cemeteries supervisor.
- (c) A violation of section 14-118, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-119. Lettering generally.**

All lettering must be cut true and regular in form, and must conform to the highest grade of workmanship. A permit to add or change a name or date must be obtained from the cemeteries supervisor. The fee for such a permit shall be \$30.00. A violation of section 14-119, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-120. Sandblast lettering.**

All sandblast lettering must be shallow. A violation of section 14-120, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-121. Approval of lettering.**

All lettering is subject to approval of the cemeteries supervisor. A violation of section 14-121, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-122. Sunken family name letters.**

All sunken family name letters must be incised at least three-eighths inch. The bottom of the letters must be finished U-shaped and unpitted. A violation of section 14-122, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-123. Raised family name letters.**

All raised family name letters, whether flat faced or half round, must be raised at least three-eighths inch and, if flat faced, must be cut straight down. A violation of section 14-123, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-124. Sunken inscriptions.**

- (a) All sunken inscriptions or record letters one inch and over in height must be incised at least 3/16inch.
- (b) All sunken inscription or record letters less than one inch in height must be incised at least one-eighth inch.
- (c) A violation of section 14-124, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-125. Heavy portions of roman letters.**

The heavy portions of all Roman letters must be incised at least 3/16inch and the other portions to correspond. A violation of section 14-125, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-126. Flat-faced inscriptions or record letters.**

- (a) All flat-faced inscriptions or record letters one inch and over in height must be raised at least 3/16inch, and cut straight down or practically straight down.
- (b) All flat-faced inscriptions or record letters less than one inch in height must be raised at least one-eighth inch, and cut straight down or practically straight down.
- (c) A violation of section 14-126, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-127. Half-round raised inscriptions or record letters—One inch and over.**

All one-inch and over half-round raised inscriptions or record letters must be raised at least one-quarter inch. A violation of section 14-127 shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-128. Same—Less than one inch.**

All half-round inscriptions or record letters less than one inch in height must be raised at least 3/16inch. A violation of section 14-128 shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-130. Construction work to cease during interment service.**

Work on monumental construction must cease if an interment service is about to begin in a section or nearby until direction is given by the cemeteries supervisor to resume work. A violation of section 14-130, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-131. Monuments not to be delivered or set at certain times.**

No monument shall be delivered or set any time when the ground is soft, or on Saturdays, Sundays or legal holidays, or on any day when the drives are wet or in a soft condition. A violation of section 14-131, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-132. Use of ropes or guys; sinking posts or anchors; hauling and deposit of materials.**

Ropes or other guys must not be tied to any tree or other object, except by permission from the cemeteries supervisor or his assistant. No posts or anchors shall be sunk in the ground, except in spots designated, and no material hauled over any route or material placed on any spot except those designated. A violation of section 14-132, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-134. Cleanup after completion of work.**

When work performed pursuant to this article is completed, the lot and surroundings must be left in a clean and acceptable condition. All waste, litter, trash and lumber must be immediately removed by the party in charge of the work. A violation of section 14-134, or any

part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-136. Monuments and materials not to be left in cemetery; protection of lots and paths.**

Materials of any kind must be used or placed immediately, and the leaving of any monument or marker in the cemetery until erected, or any foundation materials, is absolutely prohibited. In order to protect lots and paths over which materials are to be moved, workmen are required to lay planks, and the moving of stones or materials except where the cemeteries supervisor or his assistant directs, and the driving of trucks off the driveway, is expressly prohibited. A violation of section 14-136, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-137. Injuring turf or plantings.**

In setting work, workmen must be careful not to injure the turf or plantings. Tools, clothing, refuse material, rock or other foundation materials must be immediately removed from the cemetery. A violation of section 14-137, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 14-138. Hours when work permitted.**

All work contemplated by this article must be done between the hours for opening and closing of the gates as provided in section 14-28. A violation of section 14-138, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**CHAPTER 22 FIRE PREVENTION AND PROTECTION**

**Sec. 22-6. Duties of fire prevention bureau; approval of construction plans; general fire safety regulations.**

- (a) *General duties of fire prevention bureau.* It shall be the duty of the officers of the bureau of fire prevention to enforce all laws and ordinances covering the following:
- (1) The prevention of fires.
  - (2) The storage and use of explosives and flammables.
  - (3) The installation and maintenance of automatic and other private fire alarm systems and fire extinguishing equipment.
  - (4) The maintenance and regulation of fire escapes.
  - (5) The maintenance of protection and the elimination of hazards in buildings and structures, including those under construction.
  - (6) The means and adequacy of exit in case of fire from factories, schools, hotels, lodginghouses, asylums, hospitals, churches, halls, theaters, amphitheatres and all other

places in which numbers of persons work, live or congregate, from time to time, for any purpose.

- (7) The investigation of the cause, origin and circumstances of fires.
- (b) *Additional duties of fire prevention bureau.* The officers of the bureau of fire prevention shall have such other powers and perform such other duties as are set forth in other sections of this Code and as may be conferred and imposed from time to time by law.
- (c) *Approval of building plans.* Where buildings, excluding residential occupancies under four stories, are required by ordinances adopted by the city to have fire protection and other safety to life requirements included in the construction, or to have facilities for protection against conditions hazardous to life or property in use or occupancy, building plans shall be submitted to the fire prevention bureau of the city fire department. The plans must be approved by the fire marshal or his duly authorized agent as being in compliance with the fire prevention code before a permit may be issued and before construction begins. The bureau of fire prevention may issue permits for footings prior to actual construction on portions of buildings regulated by the fire prevention code.
- (d) *Certificate of compliance for sprinkler and standpipe systems.* All persons, upon completion of any installation, alteration or renovation of any sprinkler or standpipe system, shall submit a letter certifying compliance with the state building code and applicable required standards to the city fire department.
- (e) *Approval of plans for alarm systems and fire extinguishing systems.* Plans for any and all fire alarm systems, sprinkler systems, standpipe systems, fire extinguishing equipment and automatic fire extinguishing systems shall be submitted to the fire prevention bureau for approval prior to the installation of such systems in the city, and such fire protection equipment shall be installed in compliance with applicable code provisions.
- (f) *Bonfires and rubbish fires.* No person shall kindle or maintain any bonfire or rubbish fire or authorize any such fire to be kindled or maintained on any private property, or on or in any public ground, without a permit or other proper authorization. During construction or demolition of buildings or structures, no waste materials or rubbish shall be disposed of by burning on premises or in the immediate vicinity without having obtained a permit or other proper authorization. Furthermore, no person shall kindle or maintain any such fire which emits smoke or fumes in such quantity as to create a hazard or nuisance.
- (g) *Smoking.* Smoking is prohibited under certain conditions. For purposes of this subsection, smoking shall mean and include the carrying of a lighted pipe, cigar or cigarette, or tobacco in any form.
- (h) A violation of section 22-6, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 22-7. Congregating in streets around fires; interference with work of fire department.**

It shall be unlawful for persons to congregate in the streets, lanes, alleys or squares next to a fire, so as to interfere with the work of the fire department, or for any person to interfere with any member of the fire department or to obstruct the work of the fire department, in any way, at or during a fire or while answering an alarm of fire. A violation of section 22-7, or any part

thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 22-8. Boarding apparatus going to or coming from fires.**

It shall be unlawful for any person, not a member of the fire department, to board any fire engine, truck or other fire apparatus en route to or from any fire, without permission of the chief of the fire department. A violation of section 22-8, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 22-9. Discarding burning objects.**

It shall be unlawful for any person, either willfully or negligently, to throw down or drop any lighted match, cigar, cigarette or other burning object in combustible material or in close proximity thereto, when such person does not remain to control such burning as may develop. A violation of section 22-9, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 22-11. Identification placard for hazardous materials.**

Any person operating a business, having in his possession, storing or using, in any amount, material classified as a dangerous material in any building or on any premises shall place a placard upon the material therein or upon any premises. The placard shall identify the material by a coded system of numbers from zero to four, the numbers of which will identify the severity of the hazard, with a zero indicating no special hazard and the higher number of four indicating a severe hazard. The placard shall be diamond shaped and also provide a color code as further identification of the materials therein as set forth in NFPA Pamphlet 704M, Identification System, Fire Hazard of Materials 1990. A violation of section 22-11 or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 22-12. Automatic telephone alarm devices.**

- (a) No person shall use or operate, attempt to use or operate, or cause to be used or operated, or arrange, adjust, program or otherwise provide for or install, any device or combination of devices that will, upon activation, either mechanically, electronically or by any other automatic means, initiate an intrastate call and deliver a recorded message to any telephone number assigned to any police or fire station of the city.
- (b) The term, "telephone number," as used in this section, includes any additional number assigned by a public utility company engaged in the business of providing communication services and facilities to be used by means of a rotary or other system to connect with the subscriber having such primary number when the primary telephone number is in use.
- (c) A violation of section 22-12, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 22-13. Approval of hydrant locations and distribution for new subdivisions.**

Prior to the department of public works issuing a building permit for new construction for single-family or multifamily subdivisions, it shall be required that the office of the fire prevention bureau approve and accept the proposed hydrant locations and hydrant distribution for the subdivision. A violation of section 22-13, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 22-41. Authority to order electric companies to cut off current during fires.**

During any fire in the city, the chief of the fire department or his deputy may order any electric light or electric power company to cut off the electric current from its wires, whenever it may be considered necessary to preserve life or property, and it shall be unlawful for any such companies to maintain current on their wires after receiving such order. A violation of section 22-41, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 22-43. Roping off spaces around fires.**

The fire department or the police department is hereby authorized to lay off, by rope or otherwise, such portions of the street or lots adjacent thereto and to do any other acts reasonably necessary to extinguish fires and protect property and life from fire. It shall be unlawful for any person, including owners of burning or endangered property, to cross over or enter such enclosure without the permission of the police or firefighters. A violation of section 22-43, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 22-44. Permission required for fire apparatus leaving city or use for other than fire purposes.**

No fire engine, fire truck or other fire apparatus of the city shall leave the city without the consent of the city manager, the chief of the fire department or the deputy chief of the fire department. No fire apparatus shall be used for other than fire purposes without the consent of the chief or deputy chief of the fire department. A violation of section 22-44, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 22-61. Application.**

A person or organization desiring to use pyrotechnics ("applicant") to conduct public exhibitions such as fairs, carnivals, shows of all descriptions and public celebrations as set forth in G.S. 14-413 shall first obtain a permit. An application requesting said permit must be filed at least 30 days before the event with the office of business inclusion and advancement. Said department shall be in charge of processing the application which includes soliciting input from the appropriate city personnel from other city departments including but not limited to the fire chief or his designee. A response to said application shall be provided by the office of business inclusion and advancement to the applicant within seven days of receipt of the application. If approved, the permit shall be issued by the office of business inclusion and advancement.

As part of the application process, the applicant shall secure commercial general liability insurance to protect the applicant against any and all claims, demands expenses, costs and liabilities of any kind or nature directly or indirectly related to any personal injury, including death, and/or property damage to the extent proximately caused by the negligent acts or omissions of the applicant, and its agents, employees or guests, in the use, discharge or performance of the public exhibition or special event. The insurance shall also include coverage for liquor liability, explosion, collapse, and underground hazards, where applicable. This insurance shall provide bodily injury of not less than \$1,000,000.00 for each occurrence and property damage limits of not less than \$1,000,000.00 for each occurrence. All insurance required under this subsection shall be written with a company licensed to do business in North Carolina. Such insurance shall name the city as an additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date except upon 30 days advance written notice to the city. Certificates of insurance for all of the insurance coverages described herein shall be submitted with the application for the permit.

A violation of section 22-61, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 22-62. Conditions for exhibition, use or discharge of pyrotechnics.**

Any exhibition, use, or discharge of pyrotechnics shall be under the supervision of persons who are knowledgeable and competent in handling pyrotechnics and conducting such public exhibitions. The exhibition, use, and discharge of pyrotechnics shall be subject to such safeguards as may be prescribed by the fire chief or his designee. The exhibition, use, and discharge of pyrotechnics shall be subject to compliance with all applicable laws. A violation of section 22-62, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

### **CHAPTER 26 GARBAGE AND TRASH**

#### **Sec. 26-3. Bulk container and other receptacles.**

- (a) *Required refuse containers.* Occupants, proprietors or owners of single-family residential units, multiple-family residential units, as well as retail and commercial establishments, where refuse is accumulated shall provide a sufficient number of refuse receptacles or bulk containers to contain all such refuse which may accumulate between the times of successive collections. In situations where the city provides these containers, the owners shall provide adequate space for the storage of the containers.
- (b) *Required recycling container area.* For all new development of multiple-family residential units which use bulk garbage collection containers, as well as for retail and commercial establishments which use bulk garbage collection containers, these developments shall establish a recycling container storage area adequately-sized to serve the new development and to meet all applicable building code and local ordinance requirements.
- (c) *Maintenance; location.* Each person mentioned in subsection (a) of this section shall cause the receptacle required by this section to be tightly covered at all times and maintained in a manner to prevent the creation of a nuisance or unsanitary condition. Receptacles that are broken, or otherwise fail to meet the requirements of this section, shall be replaced with acceptable receptacles. Residents with an exemption from curbside collection shall store

receptacles in a place easily accessible to the collectors. They shall not be placed in garages, or inside fences or other enclosed premises unless access to the receptacles may be by means of a gate or the like, obviating the need for the receptacles to be lifted upon and over the enclosure. If a receptacle is placed within an enclosure, no other item may be stored along with it.

- (d) *Number.* Not more than three 96-gallon roll-out receptacles shall be emptied from the same premises at one collection.
- (e) *Mandatory use of bulk containers.*
  - (1) Business, commercial and retail establishments generating more than three 32-gallon refuse receptacles of refuse per week;
  - (2) Any apartment development which contains more than ten individual dwelling units;
  - (3) Any mobile home park, as defined in the city zoning ordinance, constructed or approved after adoption of the ordinance from which this chapter is derived and which contains more than ten lots; and
  - (4) Residential condominium, townhouse or cluster home developments with a density of more than eight units per acre.

The assistant city manager/public works or his designee shall have the authority to: (i) require the use of bulk containers and the disposal of trash therein on a weekly basis or more often if necessary to avoid a public health nuisance by any residential developments for public health or safety reasons or may allow; (ii) require the use of approved bulk containers or receptacles by residential developments where bulk containers are not feasible or pose a public health or safety hazard, as determined by the assistant city manager/public works or his designee; and (iii) prohibit the accumulation of trash outside the bulk container or approved non-bulk container, which accumulation is hereby declared a nuisance. Due to the health issues associated with said nuisance, the assistant city manager/public works or his designee shall attempt to provide the property owner with a four-hour written notice of the nuisance and violation by hand delivery or by posting the subject property with said notice and shall afford, by way of said notice, the property owner an opportunity to abate the nuisance and the conditions that lead to the nuisance such as the lack of capacity within the container. If the property owner does not abate the nuisance within said four- hour time period, the assistant city manager/public works or his designee may abate the nuisance by removing the trash within and around the bulker container or approved non-bulk container. Pursuant to G.S. 160A-193(a) and (b), the expense of the action shall become a lien on the real property from which the trash was removed and on any other real property owned by the person in default within the city limits or within one mile of the city limits, except for the person's primary residence unless that is where the violation occurred. Non-profit organizations or agencies approved by the assistant city manager/public works or his designee to use 96-gallon roll out containers instead of bulk containers shall pay the city an annual fee for collection in the amount of \$100.00 per roll out container.

- (f) *Violations.* It shall be a violation of section 26-3 for anyone to fail to: (i) place, maintain, or dispose of garbage or refuse or (ii) empty yard trash receptacles, bulk containers, or non-bulk containers as specified in said section. A civil penalty of \$50.00 per violation shall be assessed against the violator or owner of the premises where the violation occurred. Except as otherwise provided, notification of such assessment shall be given to the property owner

or violator within five business days after discovery of the violation by the city. When the city has to abate the nuisance, the following abatement and administrative fees will be charged to the property owner:

- (1) Twenty-four dollars per crew member per hour (one hour minimum);
  - (2) Fifty dollars per truck per hour (one hour minimum);
  - (3) Thirty-six dollars landfill tipping fee; and
  - (4) Fifty dollars administrative fee (per invoice).
- (g) *Use of yard trash mobile roll-out containers.* Residents shall use approved roll-out containers only for yard trash. These containers will be collected year round. The cost of collection per container is \$65.00 per year, or any part thereof, except that a reduced fee of \$55.00 shall be allowed once to the same occupant(s) at any given address when the collection service is purchased between January 1 and June 30.
- (h) *Use of recycling mobile containers.* Residents shall use city provided roll-out containers only for recycling. These containers will be collected year round. Service for one additional recycling container may be purchased for a fee of \$30.00 per year.
- (i) Except as provided in subsection 26-3(e), a violation of section 26-3, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 26-6. Collection from residential premises.**

- (a) *Generally.* Except for those residences that are exempted from curbside collection, garbage and household trash, as defined in subsection 26-1(4)f. and 26-1(4)g., shall be collected curbside. Such collections shall be limited to a maximum of three 96-gallon refuse receptacles or a total capacity of 288 gallons per collection. The city will provide one 96-gallon container free to each single-family household that is not exempt from the curbside collection program. Additional carts may be provided for a collection cost of \$40.00 per cart, per year, or any part thereof.
- (b) *Excess household trash accumulation (curbside collection).* No additional bags may be placed outside the cart for collection. All garbage must be bagged using heavy-duty plastic bags and be completely contained within the cart, with the lid closed.
- (c) Residents may place the container at the curb no earlier than 5:00 p.m. on the day before the resident's normally scheduled collection day. Carts should be placed out no later than 6:00 a.m. on the normal day of collection. All carts should be removed from the curb by 8:00 a.m. the day after collection, unless collected on a Friday. Friday collection carts must be removed by 8:00 a.m. Monday, unless the schedule is changed. Exceptions will be made during schedule changes due to emergencies or holidays.
- (d) *Leaves.* Accumulations of loose leaves placed along and behind the curblines shall be collected by the city vacuum leaf loading equipment from the period November 1 through January 15 of each leaf collection season. During this period, leaves shall not be mixed with other waste material, shall not be placed in the travelway of the street, and may only be containerized as set out in subsection 26-3(f).

- (e) *[Exemptions.]* Exemptions from the curbside collection requirements of this ordinance [Ordinance No. 4695] will be granted to households whose residents certify, in writing, using a city-approved form, that, due to physical impairment or other type of limitation (subject to verification by a medical professional), neither the resident nor anyone residing at their address can take their roll-out cart to the curb. Exempted households will be required to promptly report address changes and recertify that they qualify for this exemption every three years. It will be a violation of the city ordinance to provide false information for the purpose of obtaining an exemption from the curbside collection requirement of this ordinance. If the city determines that an individual who is exempted from the curbside collection requirement of this ordinance, has misrepresented the circumstances which make them eligible for the exemption, or if their circumstances have changed, and they are no longer eligible for the exemption, the city will revoke the exemption.
- (f) *Sunken garbage and trash receptacles.* These receptacles will not be collected by the city any longer. Residents with exemptions from curbside collection may not use sunken garbage and trash receptacles under the exemption policy. Only containers compatible with city equipment may be used for collection.
- (g) *Building materials.* Waste of this type originating from private property preliminary to, during or subsequent to the construction of new buildings, alterations or additions to existing buildings, of whatever type, or from demolition of existing structures, shall not be collected by the city. Such material shall be removed by the owner of the property or the contractor performing the work.
- (h) *Bulky household waste (large appliances, furniture, etc.).* Trash of this type shall not be collected by the city, except during the annual city-wide bulky item collection.
- (1) It shall be unlawful to place large bulky household trash items such as stoves, refrigerators, water heaters, building materials, mattresses, bed springs, furniture or any other collectable trash material improperly prepared for collection on public property.
  - (2) A civil penalty of not less than \$50.00 and not more than \$500.00 will be assessed to violators of this subsection by the assistant city manager/public works, and notification of such assessment shall be given to the violator within five business days after discovery of the violation by the city. The amount assessed will be dependent upon a number of factors, including but not limited to the type of trash discarded, the volume of waste discarded, violation history, the reason for the violation and civil penalties previously imposed. If the city removes the trash, the cost of removal, as set forth in subsection 26-5(d)(1) in addition to the civil penalty imposed shall be assessed to the violator.
- (i) *Historic districts.* The provisions of this ordinance which mandate curbside collection shall not apply to historic districts.
- (j) *Yard trash mobile roll-out containers.* These containers, as defined in subsection 26-1(3)e., shall be placed at the curblane for collection. No more than three yard trash containers will be collected at each residence.
- (1) No regularly scheduled collections shall be made by the city from vacant lots for any accumulations of garbage, trash, bulky items, junk, non-regulation brush or yard trash.

Any accumulation of solid waste is the responsibility of the property owner as provided in this Code.

- (k) *Recycling roll-out mobile containers.* These containers, as defined in 26-1(g), shall be placed at the curblineline for collection.
- (l) Except as provided in subsection 26-6(h)(2), a violation of section 26-6, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 26-7. Retail and commercial premises.**

- (a) *Generally.* Waste accumulated by operators, owners and proprietors of retail and commercial establishments shall be collected from refuse receptacles or mobile roll-out containers as specified in subsection 26-1(3). Such containers shall be placed on alleys, sidewalks or property adjoining the establishments for collection. Such collections shall be limited to three refuse receptacles, or one mobile roll-out container for a maximum capacity of 96 gallons per collection.
- (b) *Removing material from containers.* It shall be unlawful for any person to remove wastepaper and garbage from containers placed in private alleys in the business section of the city, except that such materials may be removed or caused to be removed by the owner or by any designated employee of the public works department of the city or by any person holding a permit from the public works department of the city.
- (c) A violation of section 26-7, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 26-10. Prohibited practices.**

- (a) *Leaves, grass clippings, debris.* It shall be unlawful and it is hereby declared a nuisance for any person to place, leave or allow to be placed or to permit to continue the accumulation of leaves, grass clippings, or any other debris from their premises on a public street, sidewalk, grass strip between a paved sidewalk and street or an area that pedestrians would be expected to use to walk upon parallel to a public street, except as provided in subsection 26-6(c). Said nuisances shall be abated in accordance with subsection 62-3(d).
- (b) *Refrigerators and other airtight containers.* It shall be unlawful and is hereby declared to be a nuisance for any person to discard, abandon, leave or allow to remain in any place any icebox, refrigerator or other container, device or equipment of any kind with an interior storage area of more than 1½ cubic feet of clear space which is airtight, without first removing the door or hinges from such icebox, refrigerator, container, device or equipment. This subsection shall not apply to any icebox, refrigerator, container, device or equipment which is being used for the purpose for which it was originally designed, or is being used for display purposes by any retail or wholesale merchant, or is created, strapped or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment thereof. Said nuisances shall be abated in accordance with subsection 62-3(d).
- (c) *Use of 55-gallon drums as receptacles.* Fifty-five-gallon drums are prohibited from use as receptacles for refuse collection by city personnel. It shall be the responsibility of the person

in possession, charge or control of the premises where the containers are being used for such purpose to discontinue such use.

- (d) *Dangerous trash items.* It shall be unlawful to place dangerous trash items and any waste materials of an injurious nature, such as broken glass, light bulbs, sharp pieces of metal, fluorescent tubes and television tubes, in garbage and trash receptacles unless they are securely wrapped and marked so as to prevent injury to the collection crews.
- (e) *Garbage.* It shall be unlawful for anyone to place garbage that has not been drained of all free liquid, wrapped, bagged and enclosed in paper or plastic material in containers for collection.
- (f) *Hazardous refuse.* It shall be unlawful to place hazardous refuse in any receptacle used for collection by the city.
- (g) *Unauthorized accumulations.* It shall be unlawful for any person to scatter, cast, throw, place, sweep or deposit anywhere within the city any litter in such a manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, body of water, sewer, parkway, lot, public property or private property. Any unauthorized accumulation of litter is hereby declared to be a public nuisance and is prohibited and shall be abated in accordance with subsection 62-3(d).
- (h) *Creation of rat harborage.* It shall be unlawful, and is hereby declared to be a nuisance under section 62-2 for any person to place, leave, dump, or permit to accumulate any garbage, rubbish, trash, yard waste, lumber, junk, old appliances, old furniture, tires, barrels, etc., in any building or upon any premises in the city in such a manner that the material may afford food or harborage for rats. Such nuisances shall be abated in accordance with the provisions of subsection 62-3(d).
- (i) *Failure to correct litter or rat harborage conditions.* Failure of the owner, occupant or proprietor to remove or correct litter and rat harborage conditions within ten days after appropriate notice from the public works department shall be a violation of this Code.
- (j) *Storage of junk.* It shall be unlawful, and is hereby declared to be a nuisance as described in chapter 62, for any person to have on his premises materials that would create dangerous or littered conditions including but not limited to dilapidated furniture, appliances, machinery, equipment, building materials, automobile parts, tires, yard waste, litter or other items which are wholly or partially rusted, junked, dismantled or inoperative and which are not completely enclosed in a building or dwelling. Said nuisance shall be abated in accordance with the procedure set out in chapter 62. This subsection shall not apply to authorized junk dealers or establishments licensed to engage in the sale, repair, rebuilding, reconditioning or salvaging of equipment, provided such materials are completely enclosed within a solid or opaque fence no less than six feet in height.
- (k) *Recycling materials.* It shall be unlawful for any person to remove recyclable materials from any recycling collection container, whether it is a recycling bin placed at the curbside for collection or a recycling container located at a recycling drop off center. Recyclable materials may include, but are not limited to, aluminum cans, tin cans, cardboard, newspapers and magazines. The assistant city manager/public works or his authorized representative shall issue a civil penalty of \$100.00 to any person in violation of this subsection. The civil penalty issued pursuant to this subsection shall be paid in full within

15 days of its issuance. Violations of this subsection shall not constitute a misdemeanor or infraction punishable under G.S. 14-4. Instead, failure to timely pay the civil penalty issued pursuant to this subsection, shall subject the violator to a civil action to recover a debt for the civil penalties due. The city revenue collector or city attorney, or their designees, are authorized to take any action necessary to collect any civil penalties which have not been paid.

- (l) *Excess brush.* It shall be unlawful for any person to allow excess brush loads to remain on the right of way more than five days after notification from the sanitation division.
- (m) *Civil penalty.* With the exception of subsections 26-10(c), (e), (f) and (k), a civil penalty will be assessed to the owner of any premises in violation of this section, by the assistant city manager/public works or his authorized representative if the violation is not corrected before the expiration of notice of violation and nuisance; and notification of such assessment shall be given to the owner by the city. The civil penalty shall be \$165.00 or ten percent of the cost of abatement, whichever is greater. If, in accordance with the procedures set out in chapter 62, the city abates the nuisance, the costs of abatement in addition to the civil penalty imposed shall be assessed to the property owner.
- (n) It shall be unlawful to place non-recyclable items inside the recycling cart for collection. The city may remove carts and discontinue service to locations where notice of violation of the ordinance has been given three times within a 12-month period.
- (o) Notwithstanding subsection 26-10(k), a violation of section 26-10, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 26-11. Mixing refuse and garbage; ashes to be kept separate from other waste.**

For the purpose of collection by the public works department, refuse and garbage may be mixed together when placed in the covered receptacles as required by subsection 26-1(3). Ashes must not be mixed with anything else. A violation of section 26-11, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 26-13. Standards for vehicles and containers used in collection and transportation of waste.**

- (a) *Maintenance.* Vehicles or containers used in the collection and transportation of garbage, or refuse containing garbage, shall be covered, leakproof, durable and of easily cleanable construction. These shall be cleaned as often as necessary to prevent a nuisance or insect breeding, and shall be maintained in good repair.
- (b) *Securing of contents.* Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak or spill therefrom, and shall be covered to prevent blowing of material. If spillage should occur, the material shall be picked up immediately by the individual transporting such solid waste and returned to the vehicle or container, and the area properly cleaned.
- (c) *Violations.* Any person failing to abide by provisions outlined in subsections (a) and (b) of this section shall be guilty of a violation of this Code. A violation of section 26-13, or any

part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 26-42. Required; exceptions.**

It shall be unlawful for any person to engage in the commercial collection of solid waste within the city without first having been granted a franchise by the city council. The city council may elect to grant nonexclusive franchises to various persons who collect solid waste commercially (commercial collectors), to grant an exclusive franchise to a single commercial collector, or to be the sole collector and grant no franchises to any commercial collector. The franchise required by this section shall not be required of any commercial collector of solid waste within the city if such collector has an existing and valid contract with the utility commission regarding solid waste collection within the city. A violation of section 26-42, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 26-45. Service charges.**

- (a) The franchisee shall be responsible for providing appropriate solid waste collection services to all persons within the franchise area that request such service and pay for the services at rates, fees and charges approved by the city council. It shall be unlawful for the franchisee to make charges greater or other than those approved by the city council.
- (b) The franchisee shall be responsible for collecting the approved fees from those persons receiving services from the franchisee; provided, however, services may be discontinued if a customer becomes in arrears in fees due to the franchisee for two consecutive months, but the franchisee must resume services for the customer upon payment of the arrears plus an advance fee equal to one month's normal fees or charges for such customer. The franchisee may bill customers one month in advance of service.
- (c) A violation of section 26-45, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 26-46. Collection and transportation standards.**

- (a) *Standards for vehicles and containers.* Vehicles or solid waste containers used by the franchisee for the collection and transportation of garbage, or refuse containing garbage, shall be covered, leakproof, durable and of easily cleanable construction, and shall be cleaned as often as necessary but not less than twice a year to prevent a nuisance or insect breeding, and shall be maintained in good repair. The franchisee shall have adequate solid waste containers and vehicle cleaning facilities. The franchisee must close all solid waste container lids after the containers are emptied, and must plug all drains in solid waste containers, where required by local and state regulations. Vehicles must display, in three-inch or greater letters, the name and address of the franchisee and the cubic yardage of the vehicle.
- (b) *Securing of loads.* Vehicles or containers used for the collection and transportation of solid waste shall be loaded and moved in such a manner that the contents will not fall, leak or spill therefrom, and shall be adequately secured and covered to prevent spillage. Should

spillage occur, the material shall be recovered immediately by the solid waste franchisee and returned to the vehicle or container, and the area property cleaned.

- (c) *Compliance with applicable regulations.* All trucks and other equipment and methods of disposal shall conform with solid waste management standards, rules and regulations of the state, county and city.
- (d) *Sufficient personnel and equipment required.* The franchisee must employ a sufficient number of persons to serve adequately the area assigned to him and must own or control sufficient equipment and machinery to perform the duties and services permitted by the franchise.
- (e) *Annual report.* The franchisee must submit an annual report to the city council and utility commission. The report shall contain but not be limited to the following:
  - (1) The total number of residential customers and the number of sanitation-only customers added and dropped during the preceding 12 months, together with the total tonnage collected from such customers.
  - (2) The total number of industrial customers and the number of industrial customers added and dropped during the preceding 12 months, together with the total tonnage collected from such customers.
  - (3) The number of complaints filed with the franchisee, organized in categories, with a report as to their final disposition.
  - (4) Any new and replacement equipment.
  - (5) Any other information which the city may reasonably request.
- (f) A violation of section 26-46, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 26-47. Liability insurance; transfer of franchise; amendment of franchise.**

- (a) The applicant, upon being awarded a franchise to collect solid waste by the city council as provided in this article, shall secure and present to the city manager or his designee a good and sufficient liability insurance policy in an amount determined by the city council insuring payment for damages determined to be due as a result of injury or property damage arising out of the collection or transportation or disposal of solid waste by the franchisee or his agents. The liability policy shall contain a hold harmless clause indemnifying the city with respect to claims made against the franchisee or the city.
- (b) No franchise granted under the provisions of this article may be sold, assigned, pledged or transferred, nor shall control thereof be changed by stock transfer or otherwise, or any rights thereunder leased, without written approval of the city council.
- (c) Any franchise shall be subject to the provisions of this article as it may be amended from time to time. Any franchise transferred or assigned without the express written authority of the city council shall be void, and any collections thereunder shall be a violation of this article, and such unlawful transfer or assignment may be grounds for revocation of the franchise.

(d) A violation of section 26-47, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

## **CHAPTER 30 LAKES**

### **Sec. 30-5. Pollution of water.**

It shall be unlawful for any person to pollute in any manner the waters of any city-owned lake, or to use Salem Lake or the surrounding area in violation of any regulations of the office of sanitary engineering of the state department of human resources. A violation of section 30-5, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

### **Sec. 30-6. Swimming or bathing; committing acts affecting purity of water.**

- (a) It shall be unlawful for any person to bathe, swim or put his feet in any city lake, unless the city has designated a swimming or wading area.
- (b) It shall be unlawful for any person to commit on any city lake or within 200 feet thereof any act that will affect the purity of the water therein.
- (c) A violation of section 30-6, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

### **Sec. 30-7. Use or possession of firearms or fireworks.**

It shall be unlawful for any person to fire a gun or pistol, firecracker or other fireworks from a boat or from the shore of any city lake, and any person who has in his possession any firearm or fireworks of any kind shall be denied admission to any city lake. A violation of section 30-7, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

### **Sec. 30-51. Rules and regulations.**

Fishing in Salem Lake is hereby permitted subject to the following rules and regulations:

- (1) *Permit required.* No person shall fish in Salem Lake except by a proper permit issued to such person by the lakes program supervisor. Permits shall be issued by the lakes program supervisor at his office at the Salem Lake fishing station. The applicant shall be required to exhibit the permit or license required by prevailing state laws governing fishing in inland waters (G.S. 113-143 et seq.) before receiving a permit from local authorities.
- (2) *Transfer of permit.* No permit shall be recognized when presented by any person other than the person to whom the permit was issued.
- (3) *Revocation of permit.* Every permit shall be issued subject to revocation or cancellation upon violation by the holder thereof of any of the rules or regulations governing fishing in Salem Lake.
- (4) *Permit not to be issued to violators of regulations.* No permit shall be issued to any person who has knowingly violated the rules and regulations governing fishing in Salem Lake.

- (5) *Duration of permit.* Salem Lake fishing permits shall be good only for the hours and date for which the permit was issued.
- (6) *Surrender of permit.* All fishing permits shall be surrendered to the lakes program supervisor.
- (7) *Fishing permitted only from boat or pier.* No fishing shall be permitted in Salem Lake except from a boat furnished or authorized by the city recreation and parks commission or from Salem Lake pier.
- (8) *Seining or trapping prohibited.* Seining or trapping of fish shall be absolutely prohibited.
- (9) *Fishing near pier.* No fishing shall be permitted within 100 feet of the pier.
- (10) *Size and type of fish; manner of fishing.* The rules and regulations of the state wildlife resources commission, as from time to time amended, with respect to size and type of fish taken and with respect to the manner of fishing shall apply on all city lakes.
- (11) *Selling fish prohibited.* No person shall sell, barter or exchange fish taken from Salem Lake.
- (12) *Inspection of catch.* The lakes program supervisor shall inspect every catch of each person at the conclusion of a day's fishing, and shall enter in the lakes program supervisor's register the person's name and address and the number and kind of fish caught. No fish not meeting the requirements of subsection (10) of this section shall be taken up.
- (13) *Bank fishing prohibited.* All fishing in Salem Lake shall be from a boat or from the pier and in no instance shall bank fishing be permitted.
- (14) *Closed season.* There shall be a closed season each year at Salem Lake which shall conform to the closed season determined by the state wildlife resources commission or as ordered by the city recreation and parks commission. During such closed season, no fishing of any kind shall be allowed in Salem Lake.
- (15) A violation of section 30-51, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 30-71. Approval of boats required.**

It shall be unlawful for any person to place a boat on Salem Lake unless the boat has been approved and specifically authorized by the city recreation and parks commission. A violation of section 30-71, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 30-72. Prohibited area.**

It shall be unlawful for any person to allow a boat under his control within the area near the dam in Salem Lake marked and designated as a danger area by buoys and cable. A violation of section 30-72, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 30-73. Equipment and numbering.**

- (a) All boats on Salem Lake, whether privately or municipally owned, shall be equipped with at least one Coast Guard approved life preserver for each occupant. Each boat shall be equipped with a pail to be used for sanitary purposes, and such pail shall not be used for fish.
- (b) Each boat on Salem Lake shall be numbered for identification purposes with numerals not less than three inches high, and the register shall show the number of the boat used. Each boat on Salem Lake shall be numbered as required by the state wildlife resources commission.
- (c) It shall be unlawful for any person to use a boat on Salem Lake unless the boat is so equipped and numbered.
- (d) A violation of section 30-73, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 30-74. Locations for entering and leaving lake.**

No boat shall, whether privately or municipally owned, enter or leave Salem Lake except from the docks provided by the municipality. A violation of section 30-74, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 30-75. Manner of propulsion.**

Boats operated on Salem Lake shall be propelled only by means of oars, paddles or sails, manually operated, except boats with motors no more than 40 horsepower going to and from fishing grounds; except that the lakes program supervisor or members of the state wildlife resources commission may have motors over 40 horsepower. A violation of section 30-75, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 30-76. Number of occupants; age of occupants; children to wear life preservers.**

It shall be unlawful for more than four persons to occupy a boat on Salem Lake at the same time, and a boat shall not be rented to a person under 16 years of age. Persons under 12 years of age will not be permitted to enter a boat unless they wear a Coast Guard approved life preserver at all times and are accompanied by an adult. Persons under 16 years of age must be accompanied by an adult. A violation of section 30-76, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 30-77. Permits for private boats.**

- (a) Application for a permit to dock a private fishing boat at the Salem Lake fishing station boat dock shall be made in writing to the city recreation and parks commission, together with the information relative to the make, type and capacity of such boat and any other data or information which may be required by the commission and the state board of health. Such application shall set forth the name of the owner or owners (not to exceed four in any event) of such boat. If approved and authorized by the city recreation and parks commission, the

commission shall cause to be issued one permit to each owner (not to exceed four in any event) with fees in amounts determined by the commission.

- (b) No private boat may be used on Salem Lake by any person not the holder of a valid permit therefor, unless such person is accompanied by the owner of such permit.
- (c) All persons using privately owned fishing boats on Salem Lake must register at the lakes program supervisor's office, exhibit a boat permit for identification and secure a fishing permit before going on the lake each time.
- (d) All private boats on Salem Lake shall be under the complete jurisdiction and control of the lakes program supervisor at all times.
- (e) Every privately owned boat on Salem Lake authorized by the city recreation and parks commission shall be kept securely fastened to its respective place at the dock when not in use.
- (f) A violation of section 30-77, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 30-101. Rules governing Salem Lake to apply; exceptions.**

Winston Lake shall be governed by the same rules applied to Salem Lake, except as follows:

- (1) It shall be lawful for any person to picnic, clean or cook fish or other foods on the shore of Winston Lake.
- (2) No city recreation department permit is required to fish on Winston Lake.
- (3) No fishing shall be permitted in Winston Lake except from the banks.
- (4) A violation of section 30-101, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**CHAPTER 34 LICENSES AND BUILDING REGULATIONS**

**Sec. 34-4. ~~Reserved. Penalty.~~**

~~The following shall be deemed to be expressly incorporated by reference within each section of this chapter: A violation of this section thereof, shall constitute a class 3 misdemeanor and shall subject the offender to a fine of not more than \$500.00.~~

**Sec. 34-15. Enforcement of licensing and tax requirements.**

- (a) ~~Civil penalties. Criminal remedies.~~ Conducting business within this city without having paid the license tax imposed by this chapter or without a valid license issued in accordance with this chapter or without posting a license in compliance with this chapter shall subject the violator to a civil penalty of \$100.00 per violation which may be recovered by the city in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days after he has been cited for violation of this article. ~~is a misdemeanor, punishable as provided in G.S. 160A-175(b). Each day that a person conducts business in violation of this chapter is~~

~~a separate offense. Payment of a fine imposed in criminal proceedings in accordance with this section does not relieve a person of the liability for taxes imposed under this chapter.~~

- (b) *Equitable remedies.* ~~In addition to the criminal remedies set forth in subsection (a) of this section and in compliance with G.S. 160A-175(a) and (d), the city may seek~~ institute an injunction, abatement, or other appropriate action or actions, proceeding or proceedings, against any person who conducts a business in violation of this chapter.

### **Sec. 34-18. Panhandlers.**

(a) *License required.*

- (1) No person shall ask, beg or solicit alms as defined in subsection 38-31(d) without first registering and obtaining a panhandler license and accompanying identification badge issued by the city revenue department. A person who has registered and who has been issued a panhandler license and accompanying identification badge shall display the identification badge on his/her person such that it is clearly visible at all times while begging or soliciting alms, and shall keep the panhandler privilege license on his or her person at all times while begging or soliciting alms for personal gain and shall display the license to any law enforcement officer or city revenue collector immediately upon request. No person whose panhandler's license has been revoked shall beg or solicit alms for a period of two years following the date of the revocation. Any person who violates this subsection is guilty of a misdemeanor.
- (2) The city revenue collector's office shall issue a panhandler license and accompanying identification badge, without fee, to any eligible person (a person shall be deemed eligible once they demonstrate, to the satisfaction of the revenue collector, their ability to satisfy the requirements for licensure as are spelled out in this chapter) who comes to the city revenue collector's office and presents a photo identification issued by NCDMV or the equivalent state agency in the applicant's state of residency and one other form of identification. The city revenue collector shall, within five business days of written request by a panhandler license holder and upon payment of a replacement fee of \$25.00, issue a replacement identification badge to any panhandler license holder who, by affidavit, notifies the city revenue office that his or her identification badge has been lost or stolen.
- (3) A person is not eligible for a panhandler license or renewal of a panhandler license if within the two-year period prior to application for license or renewal:
  - a. The city revenue collector has received information from the chief of police or his designee that the person has two or more violations of this chapter or chapter 38, articles I, II or III of the City Code;
  - b. The city revenue collector has received information from the chief of police or his designee that the person has been convicted of two or more offenses under the law of any jurisdiction which involve either misdemeanor or felony assault communicating threats, or illegal use of weapons; or
  - c. The person otherwise does not qualify for a privilege license in accordance with this chapter.
- (4) The licensee shall be provided with a copy of sections 38-31 and 32 of the City Code.

- (5) Any person who makes any false or misleading statement while applying for a panhandler's license under this chapter is guilty of a misdemeanor. Upon receipt of information of such a violation, the city revenue collector shall decline to issue a license to the offending applicant or shall revoke the license of the offending licensee.
  - (6) If a person applies for or is issued a privilege license under this chapter and the city revenue collector receives information that the person has violated any provision of this chapter, the city revenue collector shall decline to issue or shall revoke, respectively, that person's privilege license for a period of two years."
- (b) *License procedure.*
- (1) Applications for panhandler licenses from individuals under this article shall be submitted to the office of the city revenue collector on forms provided by the office of the city revenue collector. The applicant shall submit an application, together with a criminal background history check conducted by the chief of police or his designee, which shall be reviewed by the chief of police or his designee to determine eligibility of the applicant. Thereafter, any panhandler privilege license issued shall be valid until the end of the fiscal year in which said license was issued or for such other period as may be specified on the license certificate or until information is discovered that causes the licensee, in the opinion of the city revenue collector, to become disqualified. In such instances of disqualification, any panhandler license having been issued shall be subject to revocation by the city revenue collector as set forth in subsection (b)(2) below.
  - (2) Upon receipt of information or reports of violation of this section, section 38-31 or 38-32 or any other applicable code provision, the city revenue collector may refuse to issue, refuse to renew or may revoke licenses as deemed necessary to safeguard the interest of the public and to carry out the purposes of this article, which are to promote public safety and convenience on the streets and sidewalks of the City of Winston-Salem. Within ten days of notification of such action, the applicant may request a conference with the city revenue collector in accordance with section 34-18.
  - (3) Any panhandler license issued under this article shall be non-transferable.
- (c) *Procedures for conducting criminal history checks—Introduction and purpose.* This subsection (c) is adopted by the Winston-Salem City Council to provide procedures for conducting criminal history checks through SBI/DCI on individuals applying for licenses to engage in panhandling within the corporate limits of the City of Winston-Salem. This subsection (c) is adopted pursuant to the authority vested in the City of Winston-Salem in G.S. 160A-11 and 160A-12.
- (1) *Persons subject to the subsection.* Persons subject to this subsection are those seeking a license to engage in panhandling within the corporate limits of the City of Winston-Salem. "Panhandling" is defined [as] asking, begging for and/or soliciting alms for personal use. For purposes of this section, "ask, beg or solicit" includes, without limitation, use of the spoken, written or printed words or such other acts conducted in furtherance of the purpose of obtaining alms or contributions.

- (2) *Purpose of the subsection.* The purpose of the subsection is to provide for the safety of the citizens of the City of Winston-Salem and the motoring public using the streets and highways within the City of Winston-Salem.
- (3) Applicants for a panhandler license must provide with their application all identification information, name(s) and other appropriate identifiers necessary for the Winston-Salem Police Department to complete a criminal history check on the applicant.
- (4) An applicant's criminal history check will be reviewed by the Winston-Salem Police Department for determination of the applicant's eligibility to receive a panhandler license. The Winston-Salem Police Department will notify the issuing agency, the City of Winston-Salem Revenue Department, of the applicant's eligibility or non-eligibility based on the criminal history check.
  - a. *Disqualifying offenses.* The following offenses, if appearing in an applicant's criminal history check (as confirmed according to subsection b. below) and committed within the most recent two-year period, will disqualify that applicant from receipt of a panhandler license:
    1. Two or more violations of Winston-Salem City Code chapter 38, articles I, II or III; and/or
    2. Convictions of two or more offenses under the law of any jurisdiction, which involve either misdemeanor or felony assault, communicating threats, or illegal use of weapons.
  - b. *Confirmation of disqualifying offenses.* Prior to disqualification of an applicant for a panhandler license due to one or more offenses on the applicant's criminal history check, the city revenue department will verify the existence of the offense and/or conviction by obtaining a certified public record of the offense/conviction.
  - c. *Access agreement.* No applicant's criminal history will be checked pursuant to this subsection unless and until an access agreement with the state bureau of investigation for use of the state's SBI/DCI database according to applicable regulations is in effect.

(d) A violation of section 34-18, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 34-19. Pawnbrokers.**

- (a) Every person engaging or offering to engage in the business of lending money on the security of pledged goods and who may also purchase merchandise for resale from dealers and traders shall first obtain a license from the city. The requirements for licensure shall be as set forth in G.S. 66-390.
- (b) *Definitions.* For the purposes of this section, the following shall mean:

*Computerized record of pawnbroker activity* means the computerized record refers to a copy of the information required in the daily record in a reasonably available, economical electronic storage medium designated by the chief of police (currently a high density floppy

diskette, compact disc (CD), USB drive, or the pawnshop's FTP site) in some industry standard data format as designated by the chief of police.

*Daily record* means those written or typed pawnbroker records and pawn tickets or copies thereof which contain the information required to be provided by pawnbrokers to the chief of police on a daily basis by G.S. 66-391 and which may be required herein.

- (c) *Records.* Every pawnbroker doing business in the city shall make available on each business day a computerized record of pawnbroker activity for that day. The computerized record (in addition to the daily record G.S. 66-391 requires) shall, at all times during business hours and all other reasonable times, be open for the examination and inspection of the chief of police, or any policeman or other lawful officer.

Every pawnbroker shall, by 5:00 p.m. or close of business, whichever is first, on each business day furnish to the chief of police at the public safety center the daily computerized record of pawnbroker activity covering the transactions for the preceding business day.

- (d) *Inspection of stock.* Every pawnbroker shall have his goods so arranged in stock as to enable any lawful officer to readily inspect the same.
- (e) *Photographic identification required.* It shall be unlawful for any pawnbroker to, directly or indirectly, knowingly buy or receive in pawn any article from a person, the pledgor, who has not provided photographic identification which would satisfy a reasonable pawnbroker of the pledgor's age and identity. The pledgor shall be required to record the type of identification upon which he relied to determine the age and identity of the pledgor. If the pledgor provides a driver's license as identification, the pawnbroker shall be required to record the state from which the driver's license was issued and the driver's license number in the daily record.
- (f) *Bond required.* Every person licensed under this section shall, at the time of receiving the license, file with the revenue collector a bond as set forth in G.S. 66-399.
- (g) A violation of section 34-19, or any part thereof, shall subject the offender to the penalties set forth in G.S. 66-396.

## **CHAPTER 38 MISCELLANEOUS OFFENSES AD PROVISIONS**

### **Sec. 38-3. Open air public meetings.**

- (a) *Permit required for open air public meetings on a public street, sidewalk, alley or mall.* No person or group of persons shall hold an open air public meeting upon a public street, alley, sidewalk or mall unless a permit therefor shall first be obtained from the city. For purposes of this section, the term "open air public meeting" is defined to include the delivery of a public address, lecture, sermon or discourse, or the conducting of a public musical or theatrical performance.
- (b) *Form and contents of permit; scope of permit.* Every permit issued under this section shall be in writing and shall specify the day and hour of such open air public meeting, and shall be limited to a specific occasion on a single day.

- (c) *Application for permit; granting or denial; appeals revocation.* Application shall be made in writing, using forms provided by the city, and shall be filed with the office of business inclusion and advancement no earlier than seven days prior to the requested meeting and no later than 72 hours in advance of the proposed open air public meeting. The office of business inclusion and advancement shall be in charge of processing the application which process shall include soliciting input from the appropriate city personnel from other city departments including but not limited to the chief of police or his/her designee. The office of business inclusion and advancement shall promptly deliver the application to the chief of police or his/her designee, who shall act thereon no later than two business days from receipt of the application from the office of business inclusion and advancement. If the chief of police or his/her designee does not approve the application and grant the permit to hold an open air public meeting, the applicant shall be notified in writing of said denial by the office of business inclusion and advancement. The applicant may appeal the denial of said application for a permit to the city council. The notice of appeal must be in writing, must state the grounds for the appeal and must be filed with the office of business inclusion and advancement within 48 hours of notification of the denial. The city council shall act upon the appeal at the first meeting of the city council held more than two working days (exclusive of the council meeting day) after the filing of the appeal. No permit shall be denied by the chief of police, his/her designee, or the city council unless the chief of police, his/her designee, or city council finds that: (i) the proposed open air public meeting will conflict with one already scheduled; (ii) the proposed open air public meeting will seriously obstruct the free flow of vehicular or pedestrian traffic; and/or (iii) the applicant and/or those proposing to attend an open air meeting in connection with the application have been found in violation of this open air public meetings ordinance on two or more occasions in the preceding two years. An issued open air public meeting permit may be immediately revoked by the office of business inclusion and advancement if the applicant and/or those attending a permitted open air public meeting act in violation of this section or other applicable law. No open air public meeting may be conducted in such a manner as to constitute a nuisance, constitute a breach of the peace or otherwise endanger the health, safety or welfare of the public.
- (d) *Meetings on other public property.* A permit shall not be required to hold an open air public meeting on other public property of the city, including the front steps or walk area closest to the front entrance of city hall, where such open air public meeting does not encroach or go upon any city street, alley, sidewalk or mall, provided public property is not damaged thereby, ingress and egress to public buildings and other public areas are not obstructed, and the public business is not impeded. To avoid scheduling conflicts, any person or group of persons wishing to use the front steps or walk area closest to the front entrance of city hall for an open air meeting must reserve said location with the city clerk at least 24 hours in advance of the open air public meeting.
- (e) *Sound amplifying equipment, sound truck or other conveyance.* Pursuant to city code section 46-33, an application must be filed with the office of business inclusion and advancement and the same approved before any sound amplifying equipment, sound truck or other conveyance may be used in conjunction with an open air public meeting, even if a permit is not required to conduct the open air public meeting. Otherwise, the use of such sound amplifying equipment, sound truck or other conveyance is prohibited unless the

sound amplifying equipment is being operated so that the sound from said equipment may be heard only through earphones.

- (f) *Severability*. The provisions of this section are severable, and, if any part of provision of this section shall be held void, the decision of the court so holding shall not affect or impair any of the remaining parts of this section.
- (g) A violation of section 38-3, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 38-4. Hours of operation of drive-in theaters in residential districts.**

It shall be unlawful for any person in the city to exhibit or engage in the showing of motion pictures to the public between the hours of 1:30 a.m. and 8:00 a.m. at an outdoor or so-called "drive-in" theater operated wholly or partially as a nonconforming use in any district zoned residential by the city zoning ordinance; provided, however, during the period when standard time is advanced one hour pursuant to the Uniform Time Act of 1966 (popularly known as daylight saving time) it shall be unlawful to exhibit or show motion pictures to the public in such theaters between the hours of 2:30 a.m. and 8:00 a.m. The exhibition or showing of motion pictures in violation of this section is hereby declared to be a nuisance and is prohibited. A violation of section 38-4, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 38-5. Parades.**

- (a) Any parade upon the public ways used primarily for vehicular parking or moving traffic is hereby prohibited unless conducted in accordance with the provisions of this section. For purposes of this section, a parade is any parade, march, procession, walk, run, moving congregation or ceremony or other similar activity consisting of persons, animals, vehicles or things, or any combination thereof. A funeral procession is not considered a parade.
- (b) No such parade shall be held or conducted unless a permit is first obtained from the office of business inclusion and advancement. All persons participating in any parade without such permit shall be guilty of a violation of this section.
- (c) Persons or organizations desiring to hold a parade ("applicant") shall submit a written application setting forth the: (i) purpose of the parade; (ii) time; (iii) place and route of the parade; (iv) name, address and telephone number of the person(s) in charge of the parade; and (v) number and types of animals that will be in the parade and provide all necessary health certificates to the office of business inclusion and advancement. Said department shall be in charge of processing the application which process shall include soliciting input from the appropriate city personnel from other city departments including but not limited to the chief of police or his designee.

Such application shall be made at least 96 hours before holding the parade. A response to the application shall be provided to the applicant within 48 hours of receipt of the application by the office of business inclusion and advancement but after review of the application by the police chief or designee. An application for a permit may be denied or a permit may be revoked if: (i) the applicant has on prior occasions damaged city property and has not paid the city in full for said damage; (ii) a fully executed application for the same time and place has been received, and a permit has been or will be granted to a prior applicant authorizing such uses or activities which

do not reasonably permit multiple simultaneous events; or (iii) the applicant violates any of the provisions set forth in this section. The denial or revocation of a permit including the designation of an alternative time or route may be appealed by the applicant to the city manager within 48 hours of notification of the denial or revocation. The appeal must be filed with the office of business inclusion and advancement within the aforementioned time. A hearing before the city manager or his designee shall be scheduled within 48 hours after receipt of the appeal. Within 48 hours after the hearing, the city manager or his designee shall notify the applicant of his decision in writing.

- (d) The chief of police shall have authority to designate the time and route of the parade and the portion of the streets or other public places to be used, in such a way as to avoid the obstruction or impediment of public travel or public business.
- (e) No such permit shall be given for any parade for any unlawful purpose or for the purpose of petitioning the city council or any officials of the city to do any illegal act.
- (f) It shall be unlawful for any person to conduct or participate in any parade for any purpose other than the purpose set out in the application.
- (g) It shall be unlawful for any person to conduct or participate in any parade or unreasonably hamper, obstruct or interfere with any parade so as to create a public nuisance, endanger the public peace, or constitute a substantial hazard to public safety.
- (h) All spectators, participants and persons associated or affiliated with a parade must comply with G.S. 14-277.2.
- (i) Signs or posters carried by participants shall be made of cardboard no thicker than one-fourth inch. Supports for such signs or posters shall be made of a nonmetallic material no wider than three and one-half inches and no thicker than three-fourths inch.
- (j) A special event permit, as set forth in section 74-284, shall be required for any parade during which one or more streets are closed to vehicular traffic.
- (k) The chief of police or his designee may revoke a parade permit immediately upon violation of any of the conditions or standards set forth in this section, or the sections of the city code pertaining to the special event permit or sound amplification, if applicable.
- (l) Except as provided in subsection (e) herein, the granting, denial, or revocation of an application shall not be based upon the content or the purpose for the parade.
- (m) If any subsection, sentence, clause or phrases of this section is for any reason held invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this section.
- (n) Sound amplifying equipment, sound truck or other conveyance. Pursuant to city code section 46-33, an application must be filed with the office of business inclusion and advancement and the same approved before any sound amplifying equipment, sound truck or other conveyance may be used in conjunction with a parade. Otherwise, the use of such sound amplifying equipment, sound truck or other conveyance is prohibited unless the sound amplifying equipment is being operated so that the sound from said equipment may be heard only through earphones.

(o) A violation of section 38-5, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-5.1. Picketing.**

- (a) The terms picket, pickets and picketing as used herein are deemed to include persons exercising their First Amendment right of free speech by participating in any vigil, walk, run, moving congregation, procession or ceremony upon those portions of the public ways not used primarily for vehicular parking and moving traffic and not constituting a parade. Because pickets on sidewalks or other public ways not used primarily for vehicular parking or moving traffic involving large numbers of individuals may affect pedestrian or vehicular traffic, any picket larger than 25 persons shall be required to provide a 24-hour notice as set forth herein. If picketing is to occur upon public ways used primarily for vehicular parking or moving traffic then, in addition to the notice requirements of this section, a parade permit pursuant to section 38-5 shall be first obtained.
- (b) No picketing larger than 25 persons shall be held or conducted and no person shall participate in the same unless notice of intent to picket has been given to the chief of police or designee, and a receipt of such notice has been issued.
- (c) Notice of intent for more than 25 persons to picket shall be given in writing at least 24 hours prior to the picket and shall contain the following information:
  - (1) The name, and address of the organization, group, person or persons sponsoring or participating in the picketing;
  - (2) The location or locations in the city where the pickets propose to assemble and demonstrate;
  - (3) The time and date on which the picketing is to occur;
  - (4) The purpose and manner of the proposed picket;
  - (5) The name of the person and organization giving notice of intent to picket;
- (d) Upon receipt of notice of intent to picket, properly completed as hereinabove set out, the chief of police or his designee shall immediately issue a receipt of notice. The receipt shall contain the information contained in the notice.
- (e) Pickets may carry written or printed placards or signs made of cardboard no thicker than one-fourth inch. Supports for such signs or posters shall be made of nonmetallic material no wider than three and one-half inches and no thicker than three-fourths inch.
- (f) Pickets shall be restricted to the use of the outermost half of the sidewalk or other public way nearest the street and shall not at any time nor in any way obstruct, interfere with, or block persons entering or exiting from vehicles; persons crossing streets or otherwise using the public way; the entrance or exit to any building or access to property abutting the street or sidewalk; or pedestrian or vehicular traffic.
- (g) It shall be unlawful for any person to conduct or participate in any picket or to unreasonably hamper, obstruct, or interfere with any picket so as to create a public nuisance or endanger the public peace or constitute a substantial hazard to public safety.

- (h) All spectators, participants and persons affiliated or associated with a picket must comply with G.S. 14-277.2.
- (i) If any subsection, sentence, clause or phrase of this section is for any reason held invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this section.
- (j) A violation of section 38-5.1, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-6. Alcoholic beverages at city-owned or city-operated facilities—Consumption at park and recreation facilities generally.**

Unless otherwise provided in this Code, it shall be unlawful for any person to drink wine, beer or other alcoholic beverages, or to offer a drink to another person, whether accepted or not, anywhere on the premises (including streets, drives and parking areas used in connection therewith) of any city-owned or city-operated swimming pool, recreation center, tennis court, recreation area, playground or park. A violation of section 38-6, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-7. Same—Sale by city at certain facilities; possession by persons entering facility.**

- (a) *Sale of beer, wine and alcoholic beverages.* The provisions of section 38-9 to the contrary notwithstanding, it shall be lawful for the city, upon receipt of an alcoholic beverage permit from the state, to sell beer, wine and alcoholic beverages for consumption on-premises, when offered in conjunction with food and beverage concessions operated by the Fairgrounds, the Coliseum Annex, the Benton Convention Center, city-operated golf courses and Bowman Gray Stadium.
- (b) *Possession by persons entering facility.* Admittance to any event at a city-owned facility by any person (attendee or sponsor) with alcoholic beverages in their possession shall be unlawful, except when authorized by a special concession or brown bagging permit issued by the state.
- (c) A violation of section 38-7, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-8. Same—Sale or service at Fairgrounds, Winston Square Park, Wayne A. Corpening Plaza, Historic Bethabara Park, Piedmont Triad Research Park Courtyard, Reynolds Park Golf Course, Orville Powell Clubhouse, Winston Lake Golf Course, Jerry Jones Clubhouse, Bowman Gray Stadium, and Salem Lake Marina; service during special events.**

- (a) *Fairgrounds.* It shall be lawful in a leased event at the fairgrounds for the lessee to serve or sell beer, wine, and other alcoholic beverages in areas designated in the lease. Any legally required licenses or permits shall be obtained by the lessee, and the lessee will be responsible for maintaining decorum and order and leaving the premises in a clean condition.

- (b) *Piedmont Triad Research Park Courtyard.* It shall be lawful to serve or sell beer, wine, and other alcoholic beverages within the Piedmont Triad Research Park Courtyard at an event hosted by the city or by Idealliance, a North Carolina Non-Profit Corporation, or the designees, assigns or successors of Idealliance, where: (i) such event is intended to further promote the development of the Piedmont Triad Research Park; (ii) the boundaries of the area in which beer, wine, or other alcoholic beverages are served are clearly delineated; (iii) access to this area is restricted to event guests who shall be at least 21 years of age; and (iv) the requirements of subsections (d)(1) through (d)(4) below are met. Further, should the Courtyard be used for events other than those set out above, the city, operator or a renter may seek a special permit application pursuant to subsection (d) below. Depending upon the event host, the city, Idealliance, its designees, successors or assigns shall obtain any and all legally required licenses and permits and shall be responsible for maintaining the decorum and order and leaving the premises in a clean condition.
- (c) *Winston Square Park, Wayne A. Corpening Plaza, Historic Bethabara Park, Reynolds Park Golf Course, Orville Powell Clubhouse, Winston Lake Golf Course, Jerry Jones Clubhouse, Bowman Gray Stadium, and Salem Lake Marina.* It shall be lawful for the city, the operator or a renter of one or more of facilities or amenities listed in this subsection for a scheduled event to provide for or to cause to be provided arrangements for the serving of beer, wine, or other alcoholic beverages at the Winston Square Park, Wayne A. Corpening Plaza, Historic Bethabara Park, Reynolds Park Golf Course, Orville Powell Clubhouse, Winston Lake Golf Course, Jerry Jones Clubhouse, Bowman Gray Stadium, or Salem Lake Marina, either with or without charge being made therefor; provided the operator or renter: (i) completes and submits to the city's recreation and parks department, at least 30 days in advance of the scheduled event, a city rental agreement with the language required by section (e) below and adheres to the same; (ii) pays the required rental fees at least 30 days in advance of the scheduled event; (iii) agrees to comply with all applicable health and ABC laws; and (iv) agrees to comply with the obligation to make sure the contents of all bottles or cans containing beer, wine, or other alcoholic beverages, are poured into appropriate cups or glasses and all such empty bottles or cans are handled and stored in such a manner as not to be broken or left in the park, plaza area, or in, within, around or on any city facility or amenity listed in this subsection. The event coordinator shall be responsible for maintaining decorum and order and leaving the premises in a clean condition.
- (d) *Service at other premises during special events.* It shall be lawful for the city, the operator or a renter, during a special event, to provide or to provide for the serving or selling of beer, wine, or other alcoholic beverages on city property designated by the city council by resolution, or on city property designated in a special event permit application approved by the office of business inclusion and advancement pursuant to section 74-284 of the city's Code of Ordinances, either with or without charge being made therefor; provided:
- (1) Such city property designated is not in front of an existing restaurant, bar, or private club or on that part of the sidewalk otherwise permitted for sidewalk dining;
  - (2) All applicable health and ABC laws are complied with;
  - (3) The contents of all bottles or cans containing beer, wine, or other alcoholic beverages shall be poured into appropriate cups or glasses;

- (4) All empty bottles or cans shall be handled and stored in such a manner as not to be broken or left on the city property; and
  - (5) Such city property designated may not be property operated, managed or controlled by the Winston-Salem Recreation and Parks Department, except as otherwise provided for in subsections (b) and (c) above.
- (e) *Inspection/release/indemnity/insurance.* In consideration for serving alcoholic beverages, beer, or wine as allowed above, the lessee, renter or operator must sign an agreement that contains the following:
- (1) A statement accepting the area to be used "AS IS";
  - (2) A statement releasing and forever discharging the city, its officers, agents and employees, from any and all claims, demands, expenses, costs and liabilities of any kind or nature directly or indirectly related to any personal injury, including death, and/or property damage arising out of the use of the city's property and the service of alcoholic beverages, beer, or wine, except those claims that were proximately caused by the negligence of the city or of a city employee acting within the scope of his employment with the city;
  - (3) A statement agreeing to indemnify, defend and hold harmless the city, its officers, agents and employees from and against any and all claims, demands expenses, costs and liabilities of any kind or nature to the extent proximately caused by the intentional, negligent or reckless acts or omissions of the lessee, renter or operator, or their respective agents, officers, employees or guests; and
  - (4) Evidence that the lessee, renter or operator has secured commercial general liability insurance to protect the lessee, renter or operator against any and all claims, demands expenses, costs and liabilities of any kind or nature directly or indirectly related to any personal injury, including death, and/or property damage to the extent proximately caused by the negligent acts or omissions of the lessee, renter, or operator, and their respective employees, officers, agents or guests. The insurance shall also include coverage for liquor liability, explosion, collapse, and underground hazards, where applicable. This insurance shall provide bodily injury and property damage limits, each of not less than \$1,000,000.00 for each occurrence. All insurance required under this subsection shall be written with a company licensed to do business in North Carolina. Such insurance shall name the city as an additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date except upon 30 days advance written notice to the city. Certificates of insurance for all of the insurance coverages described herein shall be submitted with the agreement referenced herein and shall be maintained for the duration of the event. The lessee, renter or operator may have the authorized server of alcoholic beverages, beer, or wine during the event, such as a caterer, join on the agreement referenced herein and include the server's certificate of insurance to satisfy the requirement for liquor liability insurance.
- (f) Permission to sell or serve beer, wine or other alcoholic beverages at any city facility or amenity addressed in this section shall be withdrawn for failure of the renter or operator, or the employees, officers, guests, invitees of either to comply with the requirements set forth in this section or any applicable laws.

(g) A violation of section 38-8, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-9. Consumption or possession of malt beverages and unfortified wine on property owned, occupied or controlled by the city.**

- (a) *Prohibited.* Subject to the specific provisions of this chapter to the contrary and to permission otherwise granted by the city council or granted by the city clerk under section 38-8 herein, it shall be unlawful:
- (1) For any person to consume malt beverages or unfortified wine on property owned, occupied or controlled by the city, or for any person who is not an occupant of a motor vehicle to consume malt beverages or unfortified wine on public streets.
  - (2) For any person to possess open containers of malt beverages or unfortified wine on property owned, occupied or controlled by the city, or for any person who is not an occupant of a motor vehicle to possess open containers of malt beverages or unfortified wine on public streets.
  - (3) For any person to possess malt beverages or unfortified wine on public streets, alleys or parking lots which are temporarily closed to regular traffic for special events unless such malt beverage or unfortified wine was obtained through the sale or service of the same permitted under section 38-8 herein.
- (b) *Discarding containers.* It shall be unlawful for any person to discard or deposit any malt beverage or wine (fortified or unfortified) container in any public place, or upon any public street, or upon the private premises of another, without permission of the owner or person entitled to possession of such premises.
- (c) A violation of section 38-9, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-10. Possession and discharge of firearms.**

- (a) *Definitions.* For purposes of this section and any other city code section that addresses the possession of firearms, the following terms are hereby defined:
- (1) *Recreational facilities* include only the following:
    - a. An athletic field including any appurtenant facilities such as restrooms, during an organized event if the field has been scheduled for use with the city's recreation and parks department.
    - b. A facility used for athletic events, including but not limited to, a gymnasium.
    - c. A swimming pool, including any appurtenant facilities used for dressing, storage of personal items, or other uses related to swimming.
  - (2) *Exclusions:* For purposes of this section, the term "recreational facilities" does not include any greenway, designated biking or walking path, an area that is customarily used as a walkway or bike path although not specifically designated for use, open areas or fields where athletic events may occur unless the area qualifies as an "athletic field" as defined above or any other area unless the area is specified in subsections (i) through (iii) above.

- (b) *Fire or discharge of firearms.* It shall be unlawful for any person to fire or discharge a gun, rifle, pistol or other firearm within the city limits, including on or in any building, its appurtenant premises, including, but not limited to, a parking lot or park, or other city-owned or operated property, regardless of whether such city-owned or operated property is within or outside the corporate limits, or on or in any public school building or grounds within the city, except in case of self-defense or necessity. Except as otherwise provided herein, the city manager or his designee is authorized and directed to post, in conspicuous locations, on city-owned or operated property notices regarding this prohibition.
- (c) *Possession or open carry of firearms or handguns.* It shall be unlawful for any person to possess or open carry any handgun, gun, rifle, pistol or other firearm on or in any city-owned or operated motor vehicle, park, parking area, building, including the appurtenant premises, grounds or parking areas of those buildings regardless of whether such city-owned or operated property is within or outside the corporate limits. Except as otherwise provided herein, the city manager or his designee is authorized and directed to post, in conspicuous locations on city-owned or operated property, notices regarding this prohibition.
- (d) *Possession or carry of concealed handguns.* It shall be unlawful for any person to possess or carry a concealed handgun with or without a permit on, in or within any:
- (1) City-owned or operated buildings, and appurtenant premises within or outside of the city limits. The city manager or his designee is authorized and directed to post notices of this prohibition in conspicuous locations in city-owned and operated buildings and their appurtenant premises.
  - (2) City recreational facilities, as defined herein. The city recreation and parks director shall identify each recreational facility (athletic field, facility and swimming pool) where concealed handguns are prohibited on the city's recreation and park's department webpage and post notices of this prohibition in conspicuous locations on in each recreational facility in each of the parks listed below where concealed handguns are prohibited. The possession and carry of concealed handguns is prohibited in and on the athletic fields, facilities and swimming pools at:  
  
Ardmore, Belview, Blum/Blanding, Bolton, Brushy Fork, Central, Civitan, Crawford, Easton, Fairview, Forest, Fourteenth Street, Granville, Griffith, Hanes, Hanestown, Hanes Hosiery, Happy Hill, Hathaway, Hine Soccer Complex, Jerry King, Kimberley, Leinbach, Little Creek, Miller, Helen W. Nichols, Oak Summit, Old Town, Parkland, Piney Grove, Polo Park, Reynolds Park, Rupert Bell, Sara Lee Soccer, Sedge Garden, Shaffner, Skyland, South Park, South Fork, Sprague, Washington, Weston, Winston Lake, and Whitaker. The recreation centers are considered buildings; therefore, weapons including concealed handguns are prohibited in such centers. Nevertheless, the concealed handgun permittee may, at a recreational facility, secure the handgun in a locked vehicle within the trunk, glove box, or other enclosed compartment or area within or on the motor vehicle.
- (e) This section shall not apply to a police or other law enforcement officer lawfully discharging his duty, or to a watchman or other person specifically authorized to carry firearms on such premises while acting lawfully and within the scope of his authority, nor shall it prohibit the lawful possession or carrying of firearms on the public streets.

- (f) None of the provisions of this section shall be construed so as to prohibit currently employed law enforcement officers and/or law enforcement officers who have retired from the Winston-Salem Police Department from discharging firearms within the corporate limits of the city on any firing range maintained for the training of law enforcement officers when such firing is conducted for training purposes for currently employed officers and/or for purposes of training and qualification requirements necessary for retired officers to carry concealed under the Law Enforcement Officers Safety Act of 2004.
- (g) The provisions of this section shall not be construed so as to prohibit branches of the military service of the state and federal governments, including ROTC and reserve units, from firing guns, rifles, pistols or other firearms for training purposes in indoor ranges on the respective premises of such branches or units.
- (h) The provisions of this section shall not apply to any person discharging guns or muskets in city parks for ceremonial purposes, such persons having first obtained in writing the permission of the recreation director. In no event shall live ammunition be discharged.
- (i) For the purpose of eliminating deer and wild turkey within the boundaries of Smith Reynolds Airport, state and/or federal wildlife officers may discharge a rifle or may discharge a shotgun if the shotgun is discharged at least 800 feet from any point on the airport's boundary line. Handguns shall not be used for the purpose of removing wildlife hazards within the airport's boundaries. The amendment adopted August 19, 2019 allowing the use of rifles shall expire on August 19, 2022. The original language of this section prior to such amendment shall remain in effect.
- (j) A violation of section 38-10, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-11. Sale and use of BB guns, pellet guns, air rifles, bows, crossbows and slingshots.**

- (a) *Use.* It shall be unlawful for any person to fire or shoot a BB gun, pellet gun or air rifle, or bow, crossbow-like device, or to operate a slingshot, within the corporate limits of the city or on any property owned or operated by the city outside the corporate limits of the city, except:
  - (1) Within a completely enclosed area located at or in a private residence and against a target so placed and arranged that the projectile cannot go outside the enclosed area; or
  - (2) At an established target range which is, at the time of shooting, being operated under the supervision of the recreation or police department of the city.

A violation of this subsection shall be a misdemeanor and shall be punishable as provided by law.

- (b) *Possession by minors.* It shall be unlawful for any minor person under 18 years of age, unless accompanied by a parent, legal guardian or other adult person having custody of such child, to have any rifle or shotgun, or ammunition therefor, BB gun, pellet gun, air rifle or slingshot in his possession at any place within the city, except on his own premises, or on any property owned or operated by the city outside the corporate limits of the city. Any BB gun, pellet gun, air rifle or slingshot found in the city or at any place owned or operated by the city outside the corporate limits of the city in the possession of any person under 18 years of age who is not then accompanied by one of the persons named in this subsection



**Sec. 38-13. Possession of dynamite.**

It shall be unlawful for any person to have dynamite in his possession within the corporate limits of the city, except that this prohibition shall not apply to persons, and to their employees while engaged about the business of their employers, duly licensed to sell such merchandise, to those engaged in the contracting, construction or quarrying business, to those duly licensed to possess or use dynamite, and to common carriers of merchandise or freight for hire. A violation of section 38-13, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-14. Throwing snowballs, rocks or other missiles.**

It shall be unlawful for any person to throw, or to cause to be thrown, any snowball, rock, piece of metal or other hard missile at any bus, taxicab or motor vehicle while such bus, taxicab or motor vehicle is being driven and operated upon, or while such bus, taxicab or motor vehicle is standing upon, any public street or highway in the city, or at any pedestrian upon a public street or sidewalk. It shall be a violation of this section for any snowball, rock or other missile to be thrown as described in this section at such motor vehicle or pedestrian, regardless of whether such motor vehicle or pedestrian is struck or not, if the intention of the thrower is to strike such vehicle or pedestrian and if such intention reasonably appears from the act of throwing. A violation of section 38-14, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-15. Use of city property for private purposes.**

All automobiles, trucks, wagons, tools and other property owned by the city shall be used exclusively for the benefit of the city, and it shall be unlawful for any person, whether he is an officer or an employee of the city or not, to use any automobile, truck, wagon, tool or other property for his own private purpose, or for that of any person other than the city. A violation of section 38-15, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-15.1. Injuring or destroying public property; graffiti declared public nuisance; removal of graffiti from public and private property; sale of spray paint to minors and possession of spray paint by minors.**

- (a) It shall be unlawful for any person to willfully destroy, injure, carry away, break or deface any ornament, street sign, lamp, railing, fixture, gate, seat, bench, swing, fountain, tool, machinery; nor shall any person pull any flowers, or cut or injure in any way any tree, shrub, plant, vine or other property belonging to the city within or upon any of its streets or parks.
- (b) Graffiti is destructive of the rights and values of property owners as well as the entire community. Unless the city council acts to remove graffiti from public and private property, the graffiti may remain. Other properties then become the target of graffiti and entire neighborhoods are affected and become less desirable places in which to live, all to the detriment of the city. The city council intends, through the adoption of this section, to provide additional enforcement tools to protect public and private property from acts of graffiti vandalism and defacement. The city council does not intend this section to conflict

with existing anti-graffiti state laws, including but not limited to malicious injury to property.

(1) *Definitions.*

*Graffiti* means any inscription, word, figure, painting, or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property, by a graffiti implement, without the prior written consent of the property owner. Graffiti as defined herein shall constitute a nuisance. However, it shall not be construed to prohibit temporary, easily removable chalk or other water soluble markings on public or private sidewalks, streets or other paved surfaces which are used in connection with traditional children's activities, such as drawings, or bases for stickball, kickball, handball, hopscotch or similar activities, nor shall it be construed to prohibit temporary, easily removable chalk or other water soluble markings used in connection with any lawful business or public purpose or activity.

*Graffiti implement* means any aerosol paint container, broad-tipped marker, stick on label, paint stick, paint, etching equipment, brush or other device capable of scarring or leaving a visible mark on any natural or manmade surface.

*Legal guardian* shall include a person appointed guardian, or given custody, of a minor by a court of this state.

*Minor* shall mean a person who has not yet reached 18 years of age.

*Person* means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

*Property owner* shall mean and include the owner of the property, such property owner's agent or any person in lawful control or possession of the property.

*Proactive measures:* Physical measures initiated to prevent graffiti; such as, but not limited to:

- (1) Using fences, controlled entrance and exits, rails and other barriers that discourage through traffic;
- (2) Limiting access to roofs by moving dumpsters away from walls and covering; drainpipes to prevent vandals from scaling them;
- (3) Incorporating shrubs, thorny plants and vines to restrict vandal access;
- (4) Adding or improving lighting around the building to promote natural surveillance;
- (5) Installing some type of security camera;
- (6) Mounting a community paint brush mural on a chronically hit wall; as recommended by resources, such as Graffiti Hurts, Graffiti Prevention: Tips for Businesses. It is the responsibility of the property owner to establish proof that proactive measures have been completed.

- (2) *Prohibited act.* Any person who applies graffiti to any natural or manmade surface of any city-owned or private property without the permission of the owner or occupant

shall be subject to prosecution in accordance with the statutes relating to malicious injury to property, G.S. 14-127, G.S. 14-160 or any other applicable statute.

(3) *Removal of graffiti by perpetrator.* Any person applying graffiti on public or private property shall have the duty to remove the graffiti within 24 hours after notice by the city or private property owner of the property involved. This notice may be given in any manner deemed appropriate by the city or private property owner. Such removal shall be done in a manner that effectively removes or obscures the graffiti. The costs of removal or obscuring shall be borne by the person applying the graffiti. Failure of any person to remove or obscure the graffiti or pay for such costs shall constitute an additional violation of this section. Where graffiti is applied by an unemancipated minor, the parents or legal guardian shall also be responsible for such abatement or the costs thereof.

(4) *Removal of graffiti by property owner or city.* If the graffiti is not removed by the perpetrator in accordance with subsection (3) above, the graffiti shall be removed pursuant to the following provisions:

a. *Property owner responsibility.* It is unlawful for any property owner to permit property that is defaced with graffiti to remain defaced for a period of five days after service of the abatement notice. Said abatement notice shall be served upon the property owner by the city by personal service, by registered mail or certified mail in conjunction with regular mail and posting. If regular mail is used, a notice of the violation shall be posted in a conspicuous place on the premises in violation. If the regular mail is not returned within ten days, service shall be deemed sufficient. If the certified mail is claimed before the ten-day process for regular mail, the five-day abatement notice period shall commence running based upon the earliest service date.

The abatement notice shall contain the following information: street address and tax block and lot, if any; general description of the graffiti; instructions to effectively remove or obscure the graffiti within five days after receipt of notice and notice that if not abated within that time, the city will officially declare the graffiti a nuisance and remove or obscure the same in accordance with this section; notice of the process for requesting a hearing; and information identifying any graffiti removal assistance program(s) available through the city and private graffiti removal contractors, if known.

b. *Right of city to remove; use of public funds.* Whenever the city becomes aware of or is notified and determines that graffiti is located on publicly or privately owned property viewable from a public or quasi-public place, the city shall be authorized to use public funds for the removal, painting, obscuring or repairing of the graffiti, but shall not be authorized or undertake to provide for the painting or repair of any more extensive an area than that where the graffiti is located, unless the property owner agrees to pay for the additional cost of repainting, obscuring or repairing the more extensive area.

c. *Right of entry on private property.* Prior to entering upon private property or property owned by a public entity other than the city for the purpose of graffiti removal, the city shall attempt to secure the consent of the property owner and a release of the city

- from liability for property damage or personal injury. If the property owner is unavailable or has refused consent for entry on terms acceptable to the city and consistent with this section, the city shall obtain an administrative inspection warrant, if inspection is necessary. If the property owner fails to remove the graffiti within the time specified by this section or if the city has requested consent to remove or paint over the graffiti and the property owner has refused consent, the city may apply to the court for remedies available in G.S. 160A-175, including an order of abatement. The cost of obtaining said order shall be a lien in accordance with G.S. 160A-193.
- d. *Hearing.* The property owner shall have the right to request a hearing to show cause why the graffiti specified in the abatement notice should not be removed. The hearing must be requested in writing within five days of receipt of the abatement notice delivered either in person to the director of [the] office of business inclusion and advancement or by certified mail return receipt requested. The director of [the] office of business inclusion and advancement or his designee shall serve as the hearing officer. If after the hearing, regardless of the attendance of the owner, the hearing officer determines that the property contains graffiti viewable from a public or quasi public place, the hearing officer shall give written notice of such in an abatement order and provide further that, unless the graffiti is removed or obscured within five days, the city shall enter upon the property, cause the removal, painting over (in such color and manner to effectively obscure and minimize distinctions between the graffiti and non-graffiti surfaces) and shall provide the owner thereafter with an invoice regarding the costs as set forth in subsection e. herein unless other non-city avenues, such as volunteers or community service workers, are available to defray the costs.
- e. *Lien.* If the property owner is not eligible for financial assistance through a city program, the cost of removal or for obscuring of said graffiti shall be \$25.00 for each occurrence up to and including the third occurrence. After the third occurrence, if the property owner initiates proactive measures to prevent future occurrences, the removal charge shall remain at \$25.00 for each occurrence. If there are no proactive measures initiated to prevent future occurrences, for the fourth occurrence up to and including the seventh occurrence, the fee shall be \$50.00 per occurrence. After the seventh occurrence, if the property owner initiates proactive measures to prevent future occurrences, the removal charge shall remain at \$50.00 for each occurrence. If there are no proactive measures initiated to prevent future occurrences, for the fourth occurrence up to and including the seventh occurrence, for the eighth and subsequent occurrences, the fee shall be \$100.00 per occurrence. Any abatement costs not paid within 30 days shall constitute a lien in accordance with G.S. 160A-193.
- (5) *Sale at retail of spray paint.* The sale at retail and use of spray paint is hereby restricted as follows:
- a. No person shall sell or otherwise transfer any spray paint to a minor unless the minor is accompanied by a parent or legal guardian at the time of purchase or transfer.

- b. No minor shall at the time of purchase or transfer of any spray paint container, furnish fraudulent evidence of majority.
  - c. Except as provided herein, it shall be unlawful for any person or corporation holding a retail business license to sell or otherwise transfer spray paint to a minor, as defined herein.
  - d. Any person or corporation holding a retail business license which permits the sale of spray paint shall have posted in a conspicuous place a sign which clearly states that: "It is unlawful to sell spray paint to any person under the age of (18) years unless the person is accompanied by a parent or legal guardian at the time of purchase or transfer."
- (6) *Possession by minor of spray paint in designated public places.* It shall be unlawful for a minor to possess spray paint while in or upon: any public facility, park, playground, swimming pool, recreational facility, or other public building or structure owned or operated by the city; or while in or within 50 feet of an underpass, bridge abutment, culvert, or similar types of infrastructure, under circumstances manifesting the intent to violate any provision of this section, unless otherwise authorized by the city. Circumstances manifesting the intent of a minor to violate this section include, but are not limited to:
- a. The possession, in plain view, of spray paint by a minor in one or more of the designated public places; or
  - b. A positive identification of a minor by an witness to the application of spray paint upon a prohibited surface in one or more of the aforementioned designated public places; or
  - c. Coverage of a minor's hand(s) with spray paint while the minor is in one or more of the designated public places.
- (7) *Penalty.* A violation of this subsection shall constitute a class 3 misdemeanor and shall subject the offender to a fine of not more than \$500.00. In addition to any other punishment imposed, the court may order the person convicted of a violation of any provision of this section to make restitution to the victim for the damage or loss suffered as a result of the offense. The court may determine the amount, terms, and conditions of restitution.
- (8) *Severability.* Severability is intended throughout and within the provisions of this section. If any section, subsection sentence, clause, paragraph or portion thereof is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of any of the remaining portions of this section.
- (9) *Exemption.* The provisions of this section shall not apply to the servants, employees or officers of the city actually and necessarily engaged in the duties of their office or employment or city volunteers engaged in the duties of their assignment.
- (10) *Free speech.* This section shall not be interpreted as prohibiting any person from engaging in activities protected by the First Amendment to the United States Constitution nor shall it be interpreted as authorizing a search in violation of the Fourteenth Amendment to the United States Constitution.

- (c) A violation of section 38-15.1, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-16. Sale or use of motor vehicles bearing city insignia.**

- (a) It shall be unlawful for any person to sell, barter or trade a motor vehicle which bears the insignia of the city.
- (b) It shall be unlawful for any person to operate a privately owned car which bears the insignia of the city within the corporate limits of the city.
- (c) A violation of section 38-16, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$50.00.

**Sec. 38-17. Injuring property of railroads or public utilities.**

It shall be unlawful for any person willfully to deface or injure any property belonging to any railroad, telegraph, telephone or electric light or power company in the city. A violation of section 38-17, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-18. Prohibited acts relating to use of public parks, recreation facilities and skate park.**

- (a) *Being on premises after closing hours.* It shall be unlawful for any person to be on the premises of a public park or city-owned recreation facility after such park or recreation facility has been closed to the public, unless such person is an employee of the city acting within the scope of his duties, or unless such person has written permission from the city recreation department.
- (b) *Parking at place not designated for parking; leaving vehicle parked on premises after closing hours.* It shall be unlawful for any person to park a motor vehicle on the premises of any public park or city-owned recreation facility at a place not designated for parking of vehicles, and it shall be unlawful for any person to park or allow a motor vehicle to remain parked upon the premises of any public park or city-owned recreation facility, whether occupied or unoccupied, after such park or recreation facility has been closed to the public, without written permission from the recreation department.
- (c) *Closing hours defined.* A park or recreation facility shall be deemed closed to the public within the meaning of this section when area lights have been turned out, or when attendants have closed such facilities and departed, or when all organized activity has ceased. In no case shall a park or recreation facility be considered open between the hours of 10:30 p.m. and 7:00 a.m., except to activity under the supervision of the recreation department.
- (d) *Use of city skate park.* No person shall ride or use a skateboard, in-line skates or freestyle bicycle at any city-owned or operated skate park unless that person is wearing a helmet, elbow pads and knee pads. A person who fails to wear the required helmet, elbow pads and kneepads shall be subject to a citation for violating city code section 38-18(d).
- (e) A violation of section 38-18, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-19. Sleeping on public property or property of another.**

It shall be unlawful for any person to sleep in the streets, sidewalks or alleys, or on public grounds or private premises without the consent of the person in control. A violation of section 38-19, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-20. Loitering about or trespassing on school premises; disturbing students.**

- (a) It shall be unlawful for any person to loiter around any school, academy or college, or the pleasure grounds or premises thereof, in the city, without permission from the proper authorities of such school, academy or college.
- (b) It shall be unlawful for any person to go upon the grounds of any school or enter any school building, after having been forbidden to do so by the principal of the school or other person placed in charge thereof.
- (c) It shall be unlawful for any person at or near any school, academy or college in the city to engage by conversation or sign or otherwise attract the attention of any student thereof, to the disturbance of the discipline of such school, academy or college.
- (d) A violation of section 38-20, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-21. Trespassing on city golf course.**

It shall be unlawful for any person to trespass upon a golf course owned or operated by the city or the recreation and parks commission. For the purposes of this section a person shall be deemed to be trespassing on the golf course if he goes upon the fairways, greens, tees or traps when he is not engaged in golfing activities as a player, caddy, maintenance worker, officer or agent of the city or recreation and parks commission, or is not otherwise engaged in legitimate pursuits relating to or associated with participation in the playing of golf, or operation or maintenance of the golf facilities. Nothing in this section shall be construed to make unlawful the entry upon a golf course owned or operated by the city or city recreation and parks commission when such entry is with the knowledge and approval of authorized employees or agents of the recreation and parks commission, as, for example, galleries attending tournaments or persons accompanying players who are playing golf. It is the purpose of this section to make unlawful the entry upon the golf course by persons who have no legitimate reason for being on the course insofar as the playing of the game of golf is concerned or insofar as the operation and maintenance of the golf course is concerned. A violation of section 38-21, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-22. Falsely claiming to have authority to inspect property; right of entry.**

- (a) It shall be unlawful for any person, falsely claiming to have authority from any government or any governmental agency of the city, the county, the state, the United States or any other government, or agency thereof, to inspect properties within the corporate limits of the city to discover defects therein.

- (b) It shall be unlawful for any person, falsely representing himself to be an inspector for the city or an agency thereof or any other government or governmental agency, to enter upon any premises within the city limits for the stated purpose of inspecting such premises for defects therein.
- (c) Any person authorized by the city or an agency thereof or any other government or governmental agency to inspect any properties within the corporate limits of the city for alleged defects therein shall identify himself and present to the occupants thereof evidence of his authority to inspect the premises. At the same time he enters upon the premises he shall state the purpose of his visit to the occupants of the premises and give to the tenant a card showing his name and address and where he works. For the purpose of making inspections and otherwise performing their duties under this chapter, the superintendent of inspections and his duly appointed agents are hereby authorized, upon presentation of proper credentials, to enter, examine and survey at all reasonable times all residential and nonresidential structures and premises. The owner or occupant or the person in charge thereof shall, upon being presented with proper credentials, give the inspector free access to such structure and its premises at all reasonable times for the purpose of such inspection, examination and survey. If the owner or occupant or person in charge refuses admission for this purpose, admission may be obtained through the provisions of G.S. 15-27.2. A violation of section 38-22, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-23. Massage of persons of opposite sex.**

- (a) It shall be unlawful for any masseur or masseuse to treat or massage a person of the opposite sex except upon the signed order of a licensed physician, osteopath, chiropractor or registered physical therapist, which order shall be dated and shall specifically state the number of treatments, not to exceed ten. The date and hour of each treatment given and the name of the operator shall be entered on such order by the establishment where such treatments are given and shall be subject to inspection by the police at any time. The provisions of this section shall not apply to treatments given in the residence of a patient, in the office of a licensed physician, osteopath, registered physical therapist or chiropractor, or in a regularly established and licensed hospital, sanitarium, nursing home or medical clinic; nor shall this section apply to treatments given by one spouse to the other, or to treatments given by members of or persons eligible for membership in the American Massage Therapy Association or any other recognized professional massage therapy association with similar or equivalent professional membership standards as determined by the city manager's office.
- (b) A person who applies manual or mechanical massage or similar treatment to the human trunk or limbs shall be deemed, within the terms of this section, a masseur or masseuse.
- (c) A violation of section 38-23, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-24. Inside safety catch required for cold storage rooms and walk-in coolers.**

It shall be unlawful for any person to knowingly have or permit, on premises which he occupies as owner, lessee or manager, a cold storage room or walk-in cooler without an inside safety catch or device by which at least one door thereto may be opened from the inside. A violation of

section 38-24, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-25. Removing or defacing political signs or posters; removal by candidate after election.**

During any political campaign, it shall be unlawful for any person to tear up, remove or deface any poster, placard or billboard of a candidate for public office, provided however that this section shall not apply to an owner of the premises where the poster, placard or billboard is located, or to the agents or representatives of such person, or to the removal of any poster, placard or billboard placed or erected contrary to law. A violation of section 38-25, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-26. Operation of cafes and restaurants in residential districts.**

- (a) *Hours of operation.* The operation of any licensed cafe or restaurant in a residential district, as established in accordance with the zoning ordinance, which is a nonconforming use under the zoning ordinance, between the hours of 12:00 midnight and 6:00 a.m., on any day of the week, is hereby declared to be a nuisance and an injury to adjoining property owners and to the public, and operation during such hours is hereby prohibited.
- (b) *Blowing automobile horns at drive-ins.* It shall be unlawful for any person to blow an automobile horn at or near a drive-in restaurant, located as a nonconforming use in a residential area, to attract the attention of the person conducting such restaurant, for the purpose of obtaining service at the restaurant.
- (c) *Disk jockey shows.* It shall be unlawful for any person to operate a disk jockey show located upon premises occupied by any restaurant or cafe as a nonconforming use in any area zoned residential under the zoning ordinance. For the purposes of this subsection, a disk jockey show is hereby defined to be any space on which is maintained the equipment for playing a musical recording for transmission over radio, with spectators being permitted to assemble on the premises to make requests for the playing of some particular musical record, all as maintained on premises occupied by a cafe or restaurant which is being conducted as a nonconforming use in a residential area, as defined in the zoning ordinance. The operation of any such disk jockey show at any time is hereby declared to be a nuisance and an injury to adjoining property owners and to the public, and the operation of such disk jockey show is hereby prohibited.
- (d) A violation of section 38-26, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-27. Garage or yard sales.**

It shall be unlawful for residents of residential districts to conduct more than two garage/yard sales per year, neither one of which shall exceed seven days in length. Such sales are to be exclusively of residential household items and not items purchased for resale. A violation of section 38-27, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-28. Peddling in residential areas prohibited during certain hours.**

- (a) It shall be unlawful to peddle any article of merchandise from any vehicle or on foot between the hours of 7:00 p.m. and 9:00 a.m. in residential districts within the corporate limits of the city; provided, however, that, during such periods that daylight savings time is in effect, these hours shall be from 8:00 p.m. to 9:00 a.m. Should the peddler attempt to make personal contact with a resident at his or her residence, without prior specific invitation by or appointment with the resident, then the peddler must comply with the code section(s) pertaining to door to door solicitation including the shorter time limitation for said activity.
- (b) The words "articles of merchandise," as used in this section, shall mean anything of value offered for sale to the public by any person.
- (c) A violation of section 38-28, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-29. Loitering under circumstances manifesting the intent to engage in drug-related activity.**

- (a) *Definition.* For the purposes of this section, the term "public place" means any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot or transportation facility, or the doorways and entranceways to any building which fronts on any of those places, or a motor vehicle in or on any of those places, or any property owned by the city.
- (b) *Unlawful activity.* It shall be unlawful for a person to remain or wander about in a public place under circumstances manifesting the intent to engage in a violation of the North Carolina Controlled Substances Act, G.S. 90-89 et seq. Circumstances which may be considered in determining a person's intent include, without limitation, the following:
  - (1) Repeatedly beckoning to, stopping or attempting to stop passersby, or repeatedly attempting to engage passersby in conversation;
  - (2) Repeatedly stopping or attempting to stop motor vehicles;
  - (3) Repeatedly interfering with the free passage of other persons;
  - (4) Such person repeatedly passing to or receiving from passersby, whether on foot or in a vehicle, money or objects;
  - (5) Such person taking flight upon the approach or appearance of a police officer; or
  - (6) Such person being at a location frequented by persons who use, possess or sell drugs.
- (c) *Severability.* If any provision of this section is held invalid, such invalidity shall not affect any other provision, or the application thereof, which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.
- (d) *First Amendment.* This provision shall not be interpreted to prohibit any activity that is protected by the First Amendment to the United States Constitution.
- (e) *Penalty.* ~~A violation of this section shall constitute a class 3 misdemeanor and the offender shall be fined not more than \$500.00.~~ A violation of section 38-29, or any part

thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-30. Human urination or defecation on public or private property.**

It shall be unlawful for any person to urinate or defecate on any public place, sidewalk, street, alleyway or right-of-way, or in any public building, except in designated water closets or toilet facilities, or on any private property. Having the written permission of the owner or person in lawful possession of private property shall constitute an affirmative defense to the charge of urinating or defecating on private property. A violation of section 38-30, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-34. Door-to-door solicitation.**

(a) *Title; purpose.*

- (1) This section shall be known and cited as the "Winston-Salem Door-to-Door Solicitation Ordinance."
- (2) The provisions of this section are intended to balance the First Amendment rights of residential solicitors in the city with the privacy, safety, health and welfare concerns of city residents by:
  - a. Requiring all commercial solicitors to conduct any door-to-door residential solicitation within the city only pursuant to a license and while in possession of an identification badge issued by the city;
  - b. Reasonably limiting the hours of door-to-door solicitation activities; and
  - c. Enforcing prohibited solicitations at residences where the owner or occupant has erected signage or a notice that such solicitation is not desired.

(b) *Definitions.*

*Applicant* means any person or entity who has submitted an application for a license.

*Commercial solicitor* means any person, whether as a volunteer, owner, agent, consignee or employee, who engages in door-to-door commercial solicitation. For purposes of this section, "commercial solicitor" does not include members of a nationally-recognized non-profit organization (such as Boy Scouts, Girls Scouts, etc.) and does not include school students engaging in school-authorized or sponsored fundraising events.

*Door-to-door commercial solicitation* means attempting to make personal contact with a resident at his or her residence, without prior specific invitation by or appointment with the resident, for the primary purpose of:

- (1) Attempting to sell, for present or future delivery, any goods, wares or merchandise, or any services to be performed immediately or in the future, whether or not the person has a fixed place of business in the city or elsewhere and whether or not the person carries or exposes a sample of such good, wares or merchandise, and whether or not he or she is collecting advance payments for such sales; or

- (2) Personally delivering to a resident a handbill or flyer advertising a commercial event, activity, good or service that is offered to the resident for purchase away from the residence or at a future time.

*Door-to-door noncommercial solicitation* means attempting to make person contact with a resident at his or her residence, without prior specific invitation by or appointment with the resident, for the primary purpose of:

- (1) Seeking or asking for a gift or donation for a public entity or nonprofit organization exempt from federal income tax under 26 U.S.C. 501 (c)(3);
- (2) Soliciting the sale of goods, wares or merchandise for present or future delivery, or the sale of services to be performed immediately or in the future, with the entire proceeds of such sale to be paid directly to, or used exclusively for the benefit of, a public entity or nonprofit organization exempt from federal income tax under 26 U.S.C. 501 (c)(3);
- (3) Personally delivering to the resident a handbill or flyer advertising a future, not-for-profit event, activity, good or service;
- (4) Proselytizing on behalf of a religious organization;
- (5) Soliciting support for a political candidate or organization, or ballot measure or ideology; and/or
- (6) Soliciting the sales of newspapers.

*Employer* means any person, company, corporation, business, partnership, organization or other entity on behalf of whom a person is acting.

*Noncommercial solicitor* means any person, whether as a volunteer, owner, agent, consignee or employee, who engages in door-to-door noncommercial solicitation.

*License* means a document issued by the city revenue collector authorizing a commercial solicitor to engage in door-to-door commercial solicitation.

*License holder* means any person to whom a license has been issued under the provisions of this section.

*Person* means a natural person or business entity, such as, without limitation, a corporation, association, firm, joint venture, estate, trust, business trust, syndicate, fiduciary, partnership or any group or combination thereof.

*Residence* means a private residence in the city, including but not limited to, houses, condominium units and apartments, including the yards, grounds or hallways thereof.

*Supervising staff* means any person who manages or supervises commercial solicitors.

(c) *Enforcement of "no solicitation" or "no trespassing" signs.*

- (1) No solicitor, whether commercial or noncommercial, shall enter or remain upon any private premises in the city if a "no solicitation" or "no trespassing" sign is posted at or near the entrance(s) to such premises. For purposes of enforcement of this provision, if a multi-family housing complex is not otherwise posted with regard to solicitation and an individual occupant of such multi-family housing complexes wishes to prohibit some or all door-to-door solicitation at their individual residence, that individual

occupant may do so by the posting of a sign prohibiting solicitation at or near the entrance(s) to the occupant's individual residence.

- (2) This provision shall apply to all solicitation, including, without limitation, all activities that are religious, charitable or political in nature and all solicitation of newspaper subscriptions.
- (d) *License and identification badge required for all commercial solicitors.* Any commercial solicitor seeking to engage in door-to-door commercial solicitation either individually or together with or through additional individuals who are employed by or acting on behalf of said commercial solicitor must obtain a license and identification badge from the City revenue collector and pay the application fee as provided in this section before commencing any such solicitation.
- (e) *Eligibility.*
  - (1) A person is not eligible for a license, for renewal of a license, or to engage in commercial solicitation under this section if, within the two-year period prior to application for a license or renewal:
    - a. The city revenue collector has received information that the applicant or any person authorized to solicit under a license held by a license holder has violated any of the requirements of this section;
    - b. That person has been convicted of two or more offenses under the law of any jurisdiction which involved either misdemeanor or felony assault, communicating threats, the illegal use of weapons, or which adversely reflect upon the person's ability to engage in solicitation in a professional, honest and legal manner (such as burglary, theft, larceny, fraud, etc.);
    - c. That person otherwise does not qualify for a license in accordance with this section;  
or
    - d. A license held by that person has been revoked under this section or the identification badge of any person authorized to solicit under that person's license has been revoked under this section.
- (f) *Application contents; fee.*
  - (1) An application for a license shall be made at least 15 business days before the applicant desires to begin conducting door-to-door commercial solicitation within the city. Each person applying for a door-to-door commercial solicitation license shall file with the city revenue collector an application on a form provided by the city which shall include the following information:
    - a. The full legal name of the applicant (to include any and all other names under which the applicant has or does conduct business), business address and telephone number;
    - b. Information regarding the business as required by the city revenue collector, to include but not be limited to the applicant's legal status and proof of registration and good standing with the North Carolina Secretary of State's Office;
    - c. A brief description of the business or activity to be conducted and a general description of the items to be sold or the services to be provided;

- d. Hours, dates and locations in the city in which the applicant intends to engage in door-to-door commercial solicitation;
  - e. A list of the three most recent city or county locations where the Applicant has conducted business as a peddler or solicitor;
  - f. A complete list of all persons authorized to solicit under the requested license and all supervising staff;
  - g. For the applicant and each person identified pursuant to subsection (vi) above, and for any additional person to be added to said list at a future date:
    - 1. Name, address and telephone number;
    - 2. A description of the person, including height, weight, color of eyes and hair and date of birth; and
    - 3. A photograph taken no more than six months prior to the application, which photograph fairly depicts the appearance of the person authorized to solicit under the license as of the date of the application and which, in the judgment of the city revenue collector, is suitable for reproduction on the identification badge to be issued by the city.
  - h. License plate number, registration information and physical description of any vehicle to be used in conjunction with the business;
  - i. Any and all addresses and telephone numbers at which the applicant or supervising staff can be reached while conducting business within the city;
  - j. Proof of possession of any permit or license that, under federal, state, or local law is required in order to conduct the proposed business; and
  - k. Any other information deemed necessary by the chief of police and/or the city revenue collector.
- (2) An applicant shall have a continuing duty to immediately disclose to the city revenue collector any change in the information provided in the application.
- (3) An application fee of \$25.00 will be required to be submitted together with the application.
- (g) *Criminal background checks required.* Together with the application, the city revenue office will consider the results of criminal background checks as required by this section. This requirement is adopted by the Winston-Salem City Council to provide procedures for conducting criminal history checks through SBI/DCI on individuals applying for licenses to engage in door-to-door commercial solicitation and on those engaging in door-to-door solicitation on their behalf within the corporate limits of the City of Winston-Salem. This subsection (g) is adopted pursuant to the authority vested in the City of Winston-Salem in G.S. 160A-11, 160A-12 and 160A-194.
- (1) Persons subject to the subsection. Persons subject to this subsection are those seeking a license to engage in door-to-door commercial solicitation, to include without limitation any applicant, supervising staff and persons proposed to be allowed to engage in door-to-door commercial solicitation pursuant to a license to be issued under this section.

- (2) Purpose of subsection. The purpose of the subsection is to provide for the safety of the citizens of the City of Winston-Salem and the efficient and orderly conduct of door-to-door commercial solicitation within the city.
  - (3) For all persons required to submit to a criminal background check as provided in this section, identification information, name(s) and other appropriate identifiers necessary for the Winston-Salem Police Department to complete a criminal history check on the applicant must be provided.
  - (4) Each criminal history check will be reviewed by the Winston-Salem Police Department in connection with the determination of eligibility for issuance of a License under this section. The Winston-Salem Police Department will notify the issuing agency, the City of Winston-Salem Revenue Department, of each person's eligibility or non-eligibility based on the criminal history check.
  - (5) Disqualifying offenses. The following offenses, if appearing in a criminal history check as required by this section, will disqualify that applicant from receipt of a license:
    - a. Two or more violations of Winston-Salem City Code section 38-28 and/or chapter 34; and/or
    - b. Convictions of two or more offenses under the law of any jurisdiction which involve either misdemeanor or felony assault, communicating threats, or illegal use of weapons, or which adversely reflect upon the person's ability to engage in solicitation in a professional, honest and legal manner (such as burglary, theft, larceny, fraud, etc.)
  - (6) Access agreement. No applicant's criminal history will be checked pursuant to this subsection unless and until an access agreement with the state bureau of investigation for use of the state's SBI/DCI database according to applicable regulations is in effect.
- (h) *Application review.* Upon receipt of the application and the application fee of \$25.00, the city will determine if the application is complete. An application will be considered complete if all required information is provided. If the city determines that an application is incomplete, it will inform the applicant of the required information that is missing. The city will make a determination as to issuance or denial of an application within 15 business days of receipt of a complete application.
- (i) *Issuance of license; issuance of additional identification badges; duties of license holder.*
- (1) Licenses shall be issued in the name of the applicant.
  - (2) Together with the issuance of the license, the city revenue collector shall also provide the license holder with identification badges for each employee or agent authorized to solicit under the license as set out in subsection (c), above. Identification badges will contain a photograph of the solicitor, bear the words "licensed solicitor" and include the name of the solicitor, the name and a contact telephone number for the license holder and the expiration date of the license.
  - (3) Upon the written request of a license holder and upon receipt of the information required under section 38-34(f) herein, the city revenue collector shall, within five

business days, issue an identification badge to any new or additional person to be authorized to solicit under a license so long as such person is not ineligible under this section. The city revenue collector shall also, within five business days of written request by a license holder and upon payment of a replacement fee of \$25.00, issue a replacement identification badge to any commercial solicitor who, by affidavit, notifies the city revenue office that his or her identification badge has been lost or stolen.

- (4) Upon issuance of each license, the city revenue collector shall create and maintain a list of all persons authorized by the license holder to engage in door-to-door commercial solicitation under the license. It shall be the sole responsibility of the license holder to:
  - a. Provide a copy of the license and the city-issued identification badge to each person authorized to engage in solicitation under the license;
  - b. Ensure that each person authorized to solicit under the license complies with the terms and conditions of the license and with the provisions of this section;
  - c. Notify the city revenue collector in writing of any persons to be added to or deleted from the list of authorized solicitors; and
  - d. Submit to the city revenue collector, for each person to be added to the list of authorized solicitors, the information required under section 38-34(f).
  
- (j) *Duration of license; renewal.*
  - (1) Unless revoked in accordance with this section, and subject to the applicant's continued obligation to comply with all provisions of this section, a license shall be valid for a period of one fiscal year.
  - (2) Any license holder wishing to renew a license issued under this section must apply for renewal no less than 30 days prior to the expiration of the term of the then-current license. Said application will be accompanied by an updated criminal background check as required by section 38-34(g) for each person who is to be authorized to solicit under the license during the renewal term of the license. The renewal application fee for each license will be \$25.00.
  
- (k) *Denial of license.* The following shall be grounds for denial of an application for a license or for the renewal of a license:
  - (1) The failure of an applicant to submit a complete application or to truthfully provide any information requested by the city as part of the application process;
  - (2) The making by the applicant of any false or materially misleading statements in an application for a license;
  - (3) The disqualification of an applicant, supervising staff and/or any other person working on behalf of or with the applicant;
  - (4) The failure of an applicant, or any person working on behalf of or with the applicant, to comply with any provision or requirement of this section or other applicable law.
  
- (l) *Revocation of license.* If the city revenue office finds that:
  - (1) Any of the grounds for denial of an application for license have occurred;

- (2) Any license holder, supervising staff or person otherwise allowed to engage in door-to-door commercial solicitation has engaged in such door-to-door commercial solicitation in any manner which is prohibited under this section or is in violation of this section;
  - (3) Any license holder, employer and/or supervising staff have failed to supervise door-to-door solicitation conducted under a license so as to reasonably ensure that such solicitation is in compliance with the terms of the license and with the provisions of this section and/or other applicable law; or
  - (4) Any license holder, employer and/or supervising staff has authorized, condoned, or knowingly tolerated any unlawful solicitation for any solicitation conducted in such a manner as to constitute a nuisance, constitute a breach of the peace or otherwise endanger the health, safety or welfare of the public, then the city revenue office shall revoke the license in question.
- (m) *Prohibited activities.* No door-to-door commercial solicitation and no door-to-door noncommercial solicitation shall be conducted in any of the following manners:
- (1) Attempting to sell, for present or future delivery, any goods, wares or merchandise, or any services to be performed immediately or in the future (for purposes of this section, hereinafter referred to collectively as "selling") by means of statements which are known, or should have been known, by the person making them to be false or misleading;
  - (2) Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, alley, sidewalk or other public right-of-way;
  - (3) Selling in a way as creates a threat to the health, safety or welfare of any specific individual or the public;
  - (4) Before 9:00 a.m. or after 7:00 p.m. or sunset, whichever occurs first;
  - (5) Remaining on the property of another person after having been requested to leave;
  - (6) By stating or implying that the holding of a license issued by the city constitutes an endorsement of the commercial solicitor's goods and/or services by the city;
  - (7) Without displaying the identification badge required by this article, if applicable;
  - (8) By use or presentation of a revoked, expired or otherwise invalid license and/or identification badge, if applicable;
  - (9) Otherwise selling or conducting commercial solicitation in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.
- (n) *Duty to display license/identification badge.*
- (1) Any person engaging in door-to-door commercial solicitation under a license issued pursuant to this section shall conspicuously display his or her identification badge on the front of his/her person and on the outside of his/her clothing at all times.
  - (2) Whenever requested by any police or other law enforcement officer or by any customer or prospective customer, any commercial solicitor engaged in door-to-door commercial solicitation shall exhibit his/her copy of the license issued by the city.

- (3) A license holder is required, without undue delay, to report any lost or stolen license, copy of a license and/or identification badge to the city revenue collector.
- (p) *Licenses not assignable or transferable.* No License issued under this section may be assigned or transferred to any person.
- (q) *Violation; ~~penalties.~~* It shall be unlawful for:
  - (1) Any person to engage in door-to-door commercial solicitation without a license and identification badge as required by this section;
  - (2) Any person to engage in door-to-door commercial solicitation in any manner which is prohibited under this section; and/or
  - (3) Any person to employ any other person or allow any other person to act on their behalf for the purpose of door-to-door commercial solicitation without causing such employee to comply with this section.
- (r) Penalties. A violation of section 38-34, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-81. Public display of sexually oriented material to minors.**

- (a) Every person who intentionally and knowingly places sexually oriented materials on public display to minors, or who knowingly and intentionally fails to take prompt action to remove such a display or property in its possession after learning of its existence, shall be guilty of a misdemeanor.
- (b) For purposes of this section, any material is sexually oriented if the material is made up in whole or part of representations or descriptions of actual or simulated human sexual intercourse, masturbation, sodomy, direct physical stimulation of unclothed genitals or flagellation or torture in the context of a sexual relationship or emphasizes the uncovered human genitals or depicts sexually explicit human nudity which, in some significant way, is erotic for minors, and those representations lack serious literary, artistic, political, educational or scientific value for minors, and the dominant theme of those representations or descriptions appeals to the prurient interest of minors in sex.
- (c) A person places sexually oriented material on public display to minors within the meaning of this section if he places the material on or in a billboard, viewing screen, theater stage or marquee, newsstand, display rack, window, showcase, display case or similar place so that the sexually oriented material is visible to or accessible to minors.
- (d) For purposes of this section, a minor means any person under the age of 18 years.
- (e) A violation of section 38-81, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 38-82. Masturbation in public.**

It shall be unlawful for any person to wilfully masturbate in any public place, including, but not limited to, any public restroom facility, in the presence of any other person. A violation of section 38-82, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

## **CHAPTER 42 MOTOR VEHICLES AND TRAFFIC**

### **Sec. 42-9. Obedience to police officers and firefighters.**

It shall be unlawful for any person to willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official. A violation of section 42-9, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

### **Sec. 42-10. Boarding or alighting from vehicles.**

- (a) It shall be unlawful for any person to board or alight from any vehicle while such vehicle is in motion.
- (b) It shall be unlawful for any person to open the door of a stopped or parked vehicle or alight from such vehicle without first ascertaining that such act may be done in safety.
- (c) A violation of section 42-10, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

### **Sec. 42-11. Clinging to moving vehicles.**

It shall be unlawful for any person riding upon any bicycle, motorcycle, coaster, sled, roller skates or toy vehicle to attach such bicycle, motorcycle, coaster, sled, roller skates or toy vehicle, or himself, to any moving vehicle upon any roadway. A violation of section 42-11, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

### **Sec. 42-12. Riding on portion of vehicle not intended for carrying passengers.**

It shall be unlawful for any person to ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of a duty or to persons riding within truck bodies in space intended for merchandise. A violation of section 42-12, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

### **Sec. 42-15. Authority of school crossing guards to direct traffic.**

- (a) School crossing guards employed by the city police department are hereby authorized to direct traffic, as needed, in the area of their assigned schools and in conformance with the traffic laws.
- (b) It shall be unlawful for any person to fail to obey any hand signal, flag, stop sign or audible signal given by a school crossing guard in the performance of his duties.
- (c) A violation of section 42-15, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 42-44. Unauthorized signs, signals and markers.**

- (a) It shall be unlawful for any person to place, maintain or display upon or in view of any street any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic control device, traffic control signal or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of an official traffic control device, traffic control signal or railroad sign or signal.
- (b) It shall be unlawful for any person to place or maintain, nor shall any public authority permit upon any street, any traffic sign or signal bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to the streets of signs giving useful directional or warning information and of a type that cannot be mistaken for official signs.
- (c) Every sign, signal or marking prohibited by this section is hereby declared to be a public nuisance, and the chief of police or assistant city manager/public works is hereby empowered to remove the sign, signal or marking or cause it to be removed without notice.
- (d) A violation of section 42-44, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**CHAPTER 46 NOISE**

**Sec. 46-1. Penalty.**

~~The following shall be deemed to be expressly incorporated by reference within each section of this chapter: unless otherwise provided, a violation of this section, or any part thereof, shall constitute a Class 3 misdemeanor and shall subject the offender to a fine of not more than \$500.00. Any violation of this article or any section thereof shall constitute a class 3~~  
misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.

**Sec. 46-5. Sounds impacting residential life.**

- (a) The following activities as they affect normal and customary activities in and around residences during nighttime hours are deemed to be unreasonably loud. It shall be unlawful to carry on the following activities in any residentially zoned area of the city or within 300 feet of any residence in the city:
  - (1) The operation of a front-end loader for refuse collection between the hours of 10:00 p.m. and 6:00 a.m.;
  - (2) The operation of garage machinery between the hours of 10:00 p.m. and 6:00 a.m.; and
  - (3) The operation of lawn mowers and other gasoline-powered domestic tools out-of-doors between the hours of 10:00 p.m. and 6:00 a.m.
- (b) This section shall not apply to operations which are carried on in such a manner or in such a location as not to create sounds that are plainly audible from the neighboring premises or residence and shall not apply to emergency operations designed to protect the public health and safety.

- (c) *Residence* means any real property which is properly zoned, or is legally nonconforming, for residential use in accordance with the terms and maps of the Winston-Salem zoning ordinance and contains a structure or building in which one or more persons may reside, such as a single-family residential building, a duplex residential building, a townhouse residential building, a twin home residential building, an urban residential building or a multifamily residential building.
- (d) Due to the density or close proximity of residences to businesses in the Growth Management Area 1, certain activities in and around residences during the nighttime hours are unreasonably loud. It shall be unlawful to dump or engage in recycling activities involving glass bottles or cans within 300 feet of any residence in the Growth Management Area 1, between the hours of 12:00 a.m. and 6:00 a.m.
- (e) A violation of section 46-5, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 46-32. Commercial advertising.**

It shall be unlawful for any person to operate, or cause to be operated, any sound amplifying equipment, sound truck or other conveyance for commercial sound advertising purposes on any street, public square, playground or other recreational area or on any public alley in the city, without first obtaining a permit from the city, which permit may be granted by the office of business inclusion and advancement following the department's review and, where appropriate, the review of the city's recreation and parks director and other city personnel, of an application for a permit submitted, by the person proposing to use such equipment, sound truck or other conveyance ("applicant"), at least 48 hours in advance of the proposed use. The application must contain the same information required by section 46-33.

The permit may be granted, denied or revoked by the office of business inclusion and advancement. If the permit is granted, the use of such sound amplifying equipment, sound truck or other conveyance shall be subject to the same limitations set forth in section 46-33. The applicant shall keep a copy of the permit with him when the sound amplifying equipment, sound truck or conveyance is in use and shall produce the same upon the request of a police officer. A permit may be denied or revoked if such sound amplifying equipment, sound truck or other conveyance will create a public nuisance, endanger the public peace or create a substantial public safety hazard. Such denial or revocation shall be final. The applicant shall be notified of said denial or revocation.

A violation of section 46-32, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 46-33. Noncommercial use.**

- (a) *Application required.* Before any person shall use any sound amplifying equipment, a sound truck, or other conveyance while operating its sound amplifying equipment for noncommercial purposes on any street, sidewalk, mall, public square, playground, park or other city recreational area, he shall file an application for the use of such equipment, sound truck or other conveyance at least 48 hours in advance of the proposed use with the office of business inclusion and advancement and obtain a permit for said use from the office of business inclusion and advancement. Said department shall be in charge of processing the

application which process shall consist of providing a copy of the same to the appropriate city personnel in other city departments including the city's recreation and parks director for review. The application shall include the following:

- (1) Name, home telephone number and home address of the applicant.
  - (2) Address, business telephone number, email address and place of business of the applicant.
  - (3) Type, license number and motor number of the sound truck or other conveyance to be used by the applicant.
  - (4) Name and address of the person who owns the sound truck or other conveyance or sound amplifying equipment.
  - (5) Name and address of the person having direct charge of the sound truck or other conveyance or sound amplifying equipment.
  - (6) Names and addresses of all persons who will use or operate the sound truck or other conveyance or sound amplifying equipment.
  - (7) The purpose for which the sound truck or other conveyance or sound amplifying equipment will be used.
  - (8) A general statement as to the section of the city in or over which the sound truck or other conveyance will be used, or the public parks, public playgrounds or other recreational area at which the sound amplifying equipment will be used.
  - (9) The proposed hours of operation of the sound truck or other conveyance or sound amplifying equipment.
  - (10) The proposed dates for operation of the sound truck or other conveyance or sound amplifying equipment.
  - (11) A general description of the sound amplifying equipment which is to be used.
  - (12) The maximum sound-producing power of the sound truck or other conveyance, or otherwise stating the following:
    - a. The wattage to be used.
    - b. The volume in decibels of the sound which will be produced.
    - c. The approximate maximum distance for which sound will be thrown from the sound truck or other conveyance or sound amplifying equipment.
- (b) *Changes to application.* All persons using or causing to be used any sound truck or other conveyance or sound amplifying equipment for noncommercial purposes shall amend any application filed pursuant to subsection (a) of this section within 48 hours after any change in the information furnished.
- (c) *Application approval; possession and exhibition.* The community and business development department shall approve the application and issue a permit to each applicant under subsection (a) of this section, provided there are no scheduling conflicts. Said permit shall be kept in the possession of any person operating the sound truck or other conveyance or sound amplifying equipment at all times while the sound amplifying equipment or any

stationary amplifying sound equipment is in operation, and such permit shall be promptly displayed and shown to any police officer of the city upon request.

- (d) *Use restrictions generally.* The noncommercial use of any sound amplifying equipment, sound truck or other conveyance with sound amplifying equipment in operation on any permitted street, sidewalk, mall, public square, playground, park or other city recreational area in the city, shall be subject to the following regulations:
- (1) The only sounds permitted are music or human speech.
  - (2) Except as otherwise provided, operations are permitted for four hours each day, except on Sundays and legal holidays, when no operations shall be authorized. The permitted four hours of operation shall be between the hours of 11:30 a.m. and 1:30 p.m. and between the hours of 4:30 p.m. and 6:30 p.m.
  - (3) Sound amplifying equipment shall not be operated unless the sound truck or other conveyance upon which such equipment is mounted is operated at a speed of at least ten miles per hour, except when such truck is stopped or impeded by traffic. Where stopped by traffic, the sound amplifying equipment shall not be operated for longer than one minute at each such stop.
  - (4) Sound shall not be issued within 100 yards of hospitals, schools or churches.
  - (5) No sound truck or other conveyance with its amplifying device in operation shall be operated on any street or on any public or private alley within the fire limits of the city as described in section 22-3.
  - (6) Except as otherwise provided, the volume of sound shall be controlled so that it will not be audible for a distance in excess of 100 feet from the sound truck and so that the volume is not a nuisance to persons within the area of audibility; provided, however, that the limitation of audibility to a distance not in excess of 100 feet shall not apply to sound issued from aircraft.
  - (7) No sound amplifying equipment shall be operated having an excess of 15 watts of power in the last stage of amplification.
- (e) *Use in public squares, parks and recreational areas.* The regulations in subsection (d) of this section, insofar as applicable, shall apply to any noncommercial use of any sound amplifying equipment in public squares, parks and recreational areas, except that the hours for such use shall be between 2:00 p.m. and sunset on any day of the week, including Sundays and legal holidays, except for Winston Square and Corpening Plaza, where the hours of operation shall be unlimited. No such sound amplifying equipment shall be used on any public playground in connection with any public school building on days in which such public building is being used for school purposes. Further, the volume of sound from sound amplifying equipment used in public squares, parks and recreational areas shall be controlled so that it will not be audible for a distance in excess of 300 feet from the sound amplifying equipment.
- (f) *The permit provided for in this section shall be revoked if one or more the restrictions listed herein are violated.* The applicant or holder of any permit so revoked shall be notified in writing of the revocation and the basis therefore. The revocation of a permit may be appealed by the applicant to the city manager within 48 hours of notification of the

revocation. The appeal must be filed with the community and business development department within the aforementioned time. A hearing before the city manager or his designee shall be scheduled within 48 hours after receipt of the appeal. Within 48 hours after the hearing, the city manager or his designee shall notify the applicant or holder of his decision in writing. The city manager's decision shall be final.

(g) A violation of section 46-33, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 46-34. Drive-in theaters in residential districts.**

It shall be unlawful for any person to create or permit sounds for entertainment, between the hours of 8:00 p.m. and 8:00 a.m., at an outdoor or so-called drive-in theater operated wholly or partially as a nonconforming use in any district zoned residential by the city zoning ordinance, which are audible within such residential district more than 1,000 feet from the point of origin. Creating or permitting such sounds in violation of this section is hereby declared to be a nuisance and is prohibited. A violation of section 46-34, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 46-35. Mobile ice cream units.**

- (a) It shall be unlawful for any person selling or offering to sell ice cream products from local ice cream units on any of the streets of the city to use any amplified recorded sound upon the mobile ice cream units for the purpose of attracting customers, except in accordance with the following regulations:
- (1) The amplified sound so used shall not be audible for a distance in excess of 600 feet from the point of amplification while the motor vehicles carrying such equipment are moving.
  - (2) The amplification equipment shall be turned off while the motor vehicle is stopped or parked for the purpose of vending products.
  - (3) The amplification equipment shall not be used after 9:00 p.m.
- (b) It shall be the responsibility of the complainant, in the event of a violation of this section, to obtain the necessary warrant.
- (c) A violation of section 46-35, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 46-36. Radios, tape players or similar devices operated in street or other public area.**

- (a) *Noise limit.* Notwithstanding anything to the contrary in the county noise ordinance, no person shall cause, allow or permit the operating or playing of any radio, tape player or similar device that reproduces or amplifies sound in such a manner as to create noise at 50 feet from the device or vehicle containing that device when the device or vehicle is being operated in or on a public right-of-way or public space.
- (b) *Exceptions.* This section shall not apply to the exceptions granted by sections 46-33 or 46-35.

(c) A violation of section 46-36, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

## **CHAPTER 58 RAILROADS**

### **Sec. 58-2. Sounding of warning device at street crossings required.**

It shall be unlawful for any person to run on or across any street or highway within the corporate limits of the city any railroad engine or locomotive without sounding the customary warning device attached thereto during the time the engine or locomotive is in motion. A violation of section 58-2, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

### **Sec. 58-3. Unnecessary sounding of warning devices prohibited.**

It shall be unlawful for anyone to sound any customary warning device, except at street crossings to give warnings to persons or animals in peril, or in other cases of necessity. A violation of section 58-3, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

### **Sec. 58-4. Stopping or leaving cars so as to obstruct streets.**

It shall be unlawful for any railroad company, or its agents or employees, to stop, place or leave standing, for a period exceeding five minutes at any one time, any engine or locomotive or car of any description across or along any street within the corporate limits of the city in such a manner as to prevent the free passage of pedestrians, cars or other vehicles along such streets. A violation of section 58-4, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

### **Sec. 58-5. Operating train so as to obstruct streets.**

It shall be unlawful for the directing officer or the operator of any railroad train to direct the operation of or to operate the train in such a manner as to prevent the use of any street for purposes of travel for a period of time longer than five minutes, except that this section shall not apply to trains or cars in motion, other than those switching. A violation of section 58-5, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

### **Sec. 58-6. Using tracks, yards or other railroad property as public highway.**

It shall be unlawful for any person to use the tracks, yards or other real property of any railroad company within the city as a public highway. A violation of section 58-6, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

### **Sec. 58-7. Jumping on or off or clinging to cars or engines.**

It shall be unlawful for any person to jump on or off, or to cling to or hang on, any railroad car or engine in the city, while such car or engine is in motion, such person not being a passenger or an employee or officer of the railroad company. A violation of section 58-7, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 58-8. Crossing grade crossings against warning signal.**

It shall be unlawful for any person to go upon or across any railroad at a public crossing at grade when warned or signaled by a watchman or guard of the railroad company stationed at such crossing or by a police officer or by a mechanical signal, except when authorized by law or ordinance to do so. A violation of section 58-8, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 58-9. Automatic signal device, safety gate or flagman required at certain crossings.**

The operating railway company shall maintain automatic signal devices, safety gates or flagmen at the following streets and approaches to railroad crossings:

- (1) Martin Luther King, Jr. Drive east of Ivy Avenue.
- (2) 24th Street west of Liberty Street.
- (3) Third Street west of Patterson Avenue.
- (4) Fourth Street west of Patterson Avenue.
- (5) Sixth Street east of Main Street.
- (6) Seventh Street east of Main Street.
- (7) Patterson Avenue north of Indiana Avenue.
- (8) Indiana Avenue at Reynolds Park Road.
- (9) 25th Street west of Liberty Street.
- (10) Trade Street south of Northwest Boulevard.
- (11) Oakwood Drive south of Stratford Road.
- (12) Knollwood Street south of Stratford Road.
- (13) 27th Street west of Liberty Street.
- (14) Bethesda Road south of Stratford Road.
- (15) Polo Road west of Indiana Avenue.
- (16) Carver School Road south of Old Walkertown Road.
- (17) Hanes Mall Boulevard west of Stratford Road.
- (18) Westbrook Plaza Drive south of Stratford Road.
- (19) Kimwell Drive south of Stratford Road.
- (20) Shattalon Drive east of Bethania Station Road.
- (21) Miller Street north of Cloverdale Avenue.
- (22) Bethabara Park Boulevard east of Bethabara Road.
- (23) Chestnut Street south of Fifth Street.
- (24) Healy Drive south of Stratford Road.

- (25) North Point Boulevard west of Indiana Avenue.
- (26) Clemmonsville Road south of Stratford Road.
- (27) Ivy Avenue south of 21st Street.
- (28) 14th Street east of Main Street.

A violation of section 58-9, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

## **CHAPTER 62 SANITATION**

### **Sec. 62-4. Operation of public motor vehicle garages and service stations.**

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
  - (1) *Public motor vehicle garage* means any establishment, wherever located, which exists for or is operated as a place of business for servicing, storing or repairing motor vehicles or parts thereof, as a service to the general public.
  - (2) *Service station* means business establishments designed or used primarily for the sale of petroleum products and automobile accessories to the general public, including such establishments which engage in performing minor maintenance and repair services for motor vehicles.
  - (3) *Major repair work* means repairs to motor vehicles and parts thereof customarily done in public motor vehicle garages, such as but not limited to tuning of motors, making body repairs, and transmission or differential repairs or replacements.
- (b) *Prohibited acts and conditions.* The following acts and conditions are hereby found and declared to be a menace to the public health, safety and morals, contrary to and adversely affecting the general welfare, and a limitation on the use, enjoyment and value of surrounding property; and such acts and conditions are therefore hereby declared to be public nuisances and unlawful:
  - (1) It shall be unlawful for any person, including any person operating a nonconforming business in a residential area, to perform major repair work on a motor vehicle at any time on Sundays or between the hours of 9:00 p.m. and 6:00 a.m. on weekdays, in a residential area as presently or hereafter defined by the city zoning ordinance and the official zoning map of the city (districts zoned R-1, R-2, R-3, R-4, R-5 and R-6).
  - (2) It shall be unlawful to park, place, keep or allow to remain for more than 48 hours any wrecked, disassembled, junked or disabled motor vehicle, parts or subassemblies of motor vehicles, lumber, debris or materials giving off offensive odors on the premises of any public motor vehicle garage or service station located in or adjoining any residential district, or within 100 feet of any residential district, in such manner or at such location on the premises as to be visible from within such residential district, or to cause offensive odors or drainage therefrom to adversely affect the use or enjoyment of such residential property. The provisions of this subsection shall not be interpreted as prohibiting the storage of motor vehicles, parts of vehicles or the materials listed in this

subsection, which do not cause offensive odors or drainage, on the premises of public motor vehicle garages and service stations, if such vehicles, parts or materials are completely enclosed by a nontransparent screen, wall or fence at least seven feet high.

- (3) It shall be unlawful to place or allow to remain on service station premises any objects, such as but not limited to movable signs, merchandise display racks and containers, in such manner or in such locations as to create a traffic hazard by restricting access to or egress from such premises, or by impairing or limiting visibility for persons entering from a public street or for persons entering a public street from such premises.

(c) A violation of section 62-4, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 62-9. Causing litter by distribution of handbills or advertisements.**

No person shall distribute or cause to be distributed unsolicited handbills, advertisements or other similar type materials by indiscriminately placing or throwing the materials on any street, public property or private premises. Such handbills or advertisements, etc., shall be handed to persons, or may be placed upon private premises if placed behind the screen door or upon the porch or attached securely to the doorknob, in such manner as not to be easily blown about. A violation of section 62-9, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

### **CHAPTER 70 SIGNS**

#### **Sec. 70-4. Permit required for placement or erection of sign.**

- (a) It shall be unlawful for any person to place or erect any structure to be used as a sign or advertisement of any kind upon the roof or outer wall of any building until the plans therefor have been submitted to the superintendent of inspections and a permit issued.
- (b) No plan shall be approved or permit issued in violation of any provision of this chapter or in any case in which the superintendent of inspections shall determine, in the exercise of sound discretion, that the placing or erection of a sign will create a hazard to persons or property within the city.
- (c) The provisions of this section shall likewise apply to ground signs.
- (d) The provisions of the state building code and city and county codes relating to a building permit are valid and shall also be applicable to sign permits.
- (e) A violation of section 70-4, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 70-5. Permit for removal of sign.**

- (a) *Required.* It shall be unlawful for any person to remove any sign as defined in section 70-1 without a permit from or order of the superintendent of inspections, and no such permit shall be issued until he has approved the proposed manner of removing and disposing of the sign.

- (b) *Conditions.* In the exercising of powers conferred by this section, the superintendent of inspections shall consider the size, weight and location of the sign and the hazard to the public in the removal thereof, and shall include in the permit such provisions as he may consider necessary, in the exercise of sound discretion, for the removal of such sign without hazard to persons or property within the city.
- (c) *Exception for emergency work.* Where, by reason of a fire, windstorm or other casualty, the condition of a sign is rendered hazardous, and compliance with this section will delay removal of a sign, such sign may be removed before a permit is issued, but such removal shall be reported immediately in writing by leaving notice thereof at the office of the superintendent of inspections.
- (d) *Protection of public safety.* When a sign is removed without a permit, the person removing it shall do whatever is reasonably necessary to warn the public of the hazard and to prevent injury to persons or property.
- (e) A violation of section 70-5, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 70-14. Banners.**

No banner shall be erected across or along any street in the city; provided, however, that, upon request from a recognized charitable or civic organization or governmental agency, the assistant city manager/public works may issue a permit for the erection of such banner for a period of not more than 15 days and for a fee of \$ \$125.00 per banner. Any such banner shall be in accordance with the conditions of the permit. No banner shall be suspended across the street from any utility pole supporting traffic signals or streetlights. No banner shall be displayed during the month of December in the central business district. This section and its prohibitions, however, shall not apply to any banner installed or erected pursuant to the provisions contained in section 25-12(E)(10) of the formerly codified zoning ordinance. A violation of section 70-14, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 70-41. Certain signs to be erected and removed only by licensed sign erector.**

- (a) It shall be unlawful for any person, except a bonded sign erector licensed as provided in this article, to erect any roof sign, or wall sign exceeding 12 square feet in surface area and 25 pounds in weight, or projecting sign exceeding eight square feet in surface area and 25 pounds in weight, or electric or neon sign.
- (b) The provisions of this section shall apply to the removal of the signs described in this section in all cases in which the superintendent of inspections, in the exercise of sound discretion, shall consider it is necessary in exercising the power conferred upon him by section 70-5.
- (c) A violation of section 70-41, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 70-71. Applicability of registration requirement.**

- (a) The following signs shall be registered under this chapter, and the registration fee paid therefor shall be as provided in this article:
  - (1) The following roof signs:
    - a. All roof signs within 50 feet at any point of a street line extended vertically.
    - b. All roof signs 50 feet or more above the ground at the highest point of the sign and within 75 feet at any point of a street line extended vertically.
    - c. All roof signs 75 feet or more above the ground at the highest point and within 100 feet at any point of a street line extended vertically.
  - (2) The following signs, other than roof signs, more than four pounds in weight or more than four square feet in area, which are attached to the outside of a building, but do not extend more than 18 inches over any street right-of-way:
    - a. Signs eight feet or more in height at the highest point above the lowest street level at the nearest point, and within ten feet of the street line extended vertically.
    - b. Signs more than eight feet and less than 20 feet in height at the highest point above the lowest street level at the nearest point, and within 25 feet of the street line extended vertically.
    - c. Signs more than 20 feet in height at the highest point above the lowest street level at the nearest point, and within 50 feet of the street line extended vertically.
  - (3) The following signs more than four pounds in weight or more than four square feet in area can project over the street right-of-way no more than 18 inches:
    - a. All illuminated signs.
    - b. All projecting signs.
    - c. All wall signs which project over a street at any point, and which have an average height above the street of six feet or more; provided, however, that a bulletin board attached to the side of a building for the display of temporary advertising need not be registered unless its highest point is more than eight feet above the sidewalk and it has a surface area in excess of 50 square feet.
  - (4) Ground signs more than four pounds in weight or more than four square feet in area which are located nearer to the street line at any point than ten feet, plus the extreme height of the sign or its support, whichever is higher, above the ground.
  - (5) All ground sign panels located in such a manner that overturning frontwards or backwards would place any portion of the structure nearer than ten feet to the street line.
- (b) No street sign, highway sign, sign required by this chapter, or other signs erected by public authority or pursuant to the requirement of any law or ordinance shall be required to be registered.
- (c) A violation of section 70-71, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 70-101. Exemption from chapter; placement in right-of-way.**

The requirements of this chapter shall not apply to approved types of directional signs indicating the locations of churches. Church directional signs may be erected within the street right-of-way subject to the following requirements:

- (1) Such signs shall be of all metal construction, including post supports or standards. Posts shall extend below the sidewalk grade at least three feet and be encased in concrete.
- (2) Lettering on the sign shall consist of only the name of the church and a directional arrow.
- (3) Such signs may be erected only on the street upon which the designated church is situated, and only two such signs will be permitted.
- (4) The actual location of the sign with respect to the curblin or street line shall be subject to approval of the city director of transportation.
- (5) The owner shall be responsible for the installation, maintenance and upkeep of such signs, and shall protect and hold the city harmless against any cost, damage or expense arising from or growing out of the installation and maintenance of such signs. An agreement to this effect shall be signed by the owner and delivered to the city at time the permit is applied for.
- (6) Any such sign shall be removed by the owner at the request of the city should it be found necessary at any time for the city to use the space occupied by such sign for some necessary street purpose.
- (7) No such sign shall be erected within the street right-of-way except, upon meeting the criteria set forth in this section, the superintendent of inspections is hereby authorized to approve a church directional sign.
- (8) A violation of section 70-101, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**CHAPTER 74 STREETS AND SIDEWALKS**

**Sec. 74-3. Moving buildings—Permit required; application; fee.**

It shall be unlawful for any person to move or assist in moving any building through any street or public way or over any bridge or paved sidewalk in the city unless a written permit therefor shall have been issued by the assistant city manager/public works. Application for the permit shall be made at least three workdays prior to the date of move. A minimum fee of \$300.00 shall be charged for each permit issued pursuant to this section. A violation of section 74-3, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-6. Railings and fences required on lots below street or sidewalk level.**

It shall be the duty of every person owning any lot or land in the city which is so much lower than the grade of the street, sidewalk or highway on which it borders as to create a

dangerous condition, or on which there is a dangerous condition by reason of a hole, excavation or other cause, to provide proper guards or a fence sufficiently high and strong to prevent persons from falling from the street or sidewalk into such lot or land. A violation of section 74-6, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-7. Permit required for installation of telephone call boxes.**

It shall be unlawful for any person to install and maintain a telephone in a call box or otherwise on any sidewalk or street in the city without first obtaining a permit therefor from the assistant city manager/public works. A violation of section 74-7, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-8. Gas and oil pumps prohibited on sidewalks; repairing or servicing motor vehicles on sidewalk.**

Except as otherwise provided, it shall be unlawful for any person to erect or maintain any pump or other device for supplying gasoline or motor oils to any motor vehicle on any public sidewalk in the city, or for any person to obstruct any sidewalk in whole or in part by causing any motor vehicle to stand upon any sidewalk while being supplied with gasoline or oils or receiving repairs or other garage service, or for any garage or filling station owner or employee to supply gasoline or oils or make repairs or render other service to any automobile while it is located upon any part of any public sidewalk within the city. A violation of section 74-8, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-9. Removing sand, dirt or stone from street or sidewalk.**

It shall be unlawful for any person to remove any sand, dirt or stone from any street, road or sidewalk within the city without permission of the assistant city manager/public works. A violation of section 74-9, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-10. Removing or damaging bridges.**

It shall be unlawful for any person to remove or damage any bridge along a street or sidewalk in the city. A violation of section 74-10, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-11. Obstructing or placing refuse in gutters or driveways.**

It shall be unlawful for any person to put or place, or cause to be put or placed, any trash or garbage in any gutter or driveway in the city or to obstruct any gutter or driveway in any manner. A violation of section 74-11, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-12. Sidewalks to be kept clean; removal of snow.**

The tenant or occupant, or, if there is no tenant, the owner, agent or custodian, of any building or lot or parcel of land bordering on any street in the city on which there is a sidewalk abutting shall keep such sidewalk in front of and adjoining such property clean. After any fall of snow or sleet such tenants, occupants, owners, agents or custodians shall, within two hours after the snow or sleet shall have ceased to fall, remove or cause such snow or sleet to be removed from the sidewalk of their respective premises. In case the fall of snow or sleet shall have ceased during the night, it shall be removed by 12:00 noon the following morning. The cleared snow must not be placed in such a way as to obstruct the roadway or inhibit snow clearing by the city or adjacent property owners. A violation of section 74-12, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-13. Throwing refuse in street; discharging drainage from downspout or air conditioner onto sidewalk.**

- (a) It shall be unlawful for any person to put or place, or cause to be put or placed, on any sidewalk or in any street, public way or other place in the city any house sweepings, paper, yard sweepings, leaves, garbage, shavings, trash or other rubbish, except in such places and in such manner as the city council shall prescribe or provide.
- (b) It shall be unlawful for the owner of any building erected after August 18, 1958, or with the front thereafter altered or remodeled, located adjacent to a paved sidewalk, to empty water from any downspout on such building directly onto such sidewalk. The downspout water referred to shall be carried by a drain under the sidewalk and emptied into the gutter. The owner shall obtain a permit from the city for the construction of such drain at the owner's expense. This subsection shall not apply to existing downspouts in use as of August 18, 1958.
- (c) It shall also be unlawful for the owner of any building maintaining air conditioning units on such building which overhang a sidewalk on which the building abuts, or for a tenant in such building owning an air conditioning unit, to permit water from such air conditioning unit to be discharged directly upon the sidewalk.
- (d) A violation of section 74-13, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-14. Hauling rubbish, dirt or other loose material over streets.**

- (a) It shall be unlawful to haul over the public streets of the city any rubbish, trash, bottles, cans, brush, wastepaper, dirt, sand, crushed stone or similar material in or upon any vehicle so constructed, equipped or loaded that the material being hauled, or any part thereof, falls, drops, sifts, spills or blows off such vehicle onto the public streets, other vehicles or private property.
- (b) It shall be unlawful for any owner to permit anyone to use a vehicle of the owner in violation of subsection (a) of this section.
- (c) A violation of section 74-14, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-15. Placing poisonous substances on public or private property.**

It shall be unlawful for any person to place or cause to be placed any strychnine, arsenic or other poisonous substance, mixture or article, not exclusively covered by state law, in or upon any sidewalk, street, public way or public place, or in any lot or building within the city, except upon his own premises. A violation of section 74-15, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-16. Painting or writing on streets or sidewalks.**

- (a) It shall be unlawful for any person to write, paint or place upon the paving or surface of any of the sidewalks or streets of the city any words, pictures or advertisements of any kind whatsoever, or for any person to cause such acts to be done, except for eleemosynary purposes, and then only with specific permission of the city council. In endorsing and approving said words, pictures, or advertisements on the streets or sidewalks of the city, the city is engaging in government speech, and not opening a public forum for free speech activity.
- (b) The procedure for requesting specific permission of the city council shall be as follows:
  - (1) Submission of a completed application to staff;
  - (2) Staff reviews the application to ensure completeness of the application;
  - (3) If the application is complete, staff will forward the application to city council for its consideration;
  - (4) If the application is incomplete, staff will request additional information;
  - (5) Once city staff determines that the necessary information has been received and the application is complete, city staff will forward the application to city council for its consideration; and
  - (6) City council shall consider and vote upon the application at a city council meeting.
- (c) A violation of section 74-16, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-19. Removal of vegetation from sidewalks and street rights-of-way; abatement.**

- (a) As used herein, the term "vegetation" shall mean grass, vines, hedges, shrubs, trees, plantings, limbs, weeds or obnoxious growth.
- (b) The owner, tenant or occupant of any lot bordering on any street in the city where there is an abutting sidewalk shall keep all vegetation removed from such sidewalk and shall keep all vegetation bordering thereon properly trimmed so as not to require a pedestrian to take evasive action to avoid physical contact with the same or otherwise hinder the safe passage of pedestrians.
- (c) The owner, tenant or occupant of any lot bordering on any street in the city, shall maintain that area of the street right-of-way between the edge of the traveled roadway or curbline and the adjacent property line in a reasonably safe condition and shall remove all vegetation from such area of the street right-of-way which could obstruct the view of such street or

intersecting streets by motorists or require motorists to take evasive action to avoid physical contact with the same.

- (d) A violation of this section shall be deemed a public nuisance inconsistent with and detrimental to public safety and shall be abated in accordance with the following procedure:
- (1) The assistant city manager/public works or his designee shall cause to be sent to the owner, tenant or occupant of such lot, notice of the violation.
  - (2) The individual(s) receiving notice shall have ten days from the date of the notice to correct the deficiencies listed therein.
  - (3) If the individual(s) receiving notice does not correct such deficiencies, the assistant city manager/public works or his designee shall have authority to remove and correct them.
  - (4) The expense of such action shall be billed to the individual(s) receiving notice. If the bill is unpaid after 30 days and the owner has been noticed [notified] of the violation as provided in subsection (1) above, the amount of the bill shall become a lien upon the land or premises where the deficiencies arose. A lien established pursuant to this subsection shall have the same priority and be collected as unpaid ad valorem taxes. The expense of the action is also a lien on any other real property owned by the person in default within the city limits or within one mile of the city limits, except for the person's primary residence. The additional lien established pursuant to this subsection is inferior to all prior liens and shall be collected as a money judgment. This subsection, as it relates to the additional lien, shall not apply if the person in default can show that the nuisance was created solely by the actions of another.
- (e) A violation of section 74-19, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-20. Use of skateboards, coasters and similar devices in central business district.**

Except as otherwise provided, it shall be unlawful for any person to coast on a sled, coaster express wagon or toy wagon or move or skate on any roller skates, skateboard or other similar device upon any public street, right-of-way, sidewalk, park or other public property located in the central business district of the city as shown on the official zoning map of the city adopted as part of the city zoning ordinance by the city council. A violation of section 74-20, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-22. Approval of plans required for construction in right-of-way.**

It shall be unlawful for any person to install any drainpipe or ventilation pipe or do any type of construction in the street right-of-way without first submitting the plans for such work to the assistant city manager/public works for his approval. A violation of section 74-22, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-23. Charging for use of street.**

It shall be unlawful for any person, with the exception of the city, to charge any other person for the use of any portion of any public street within the city limits. A violation of section

74-23, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-24. Installation of benches on sidewalks in shopping area.**

Any person may install and maintain benches upon the sidewalks in the shopping area for the use of the public at such locations as may be approved by the assistant city manager/public works. The structure, design and location of such benches shall first be approved by the assistant city manager/public works. They shall be placed only in well-lighted areas upon streets that are regularly patrolled and shall be so placed as not to interfere unreasonably with the traffic on the sidewalks. Any bench so installed is subject to removal at any time by the assistant city manager/public works, and the person installing the bench shall remove the bench promptly when ordered to do so by the assistant city manager/public works. A violation of section 74-24, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-25. Playing games on street or sidewalk; throwing stones or other missiles.**

It shall be unlawful for any person to play any game on any sidewalk or in any street or public alley so as to cause a traffic problem, so as to endanger the safety of any person, or so as to create a nuisance to drivers, pedestrians, owners or occupiers of adjacent property, unless such sidewalk, street or alley shall have been designated as closed for a parade or special event approved pursuant to the applicable sections of chapters 38 and 74, and by the city recreation and parks commission, where required." Additionally, it shall be unlawful for any person on roller skates, inline skates, or a skateboard or while riding in or on any sled, coaster, toy vehicle or similar device to go upon any street or public alley so as to impinge upon the normal flow of vehicular or pedestrian traffic. Further, it shall be unlawful to throw stones, gravel, marbles, shot or any other object with a sling, shooter, blowgun, air gun or other device of like kind. A violation of section 74-25, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-26. Ordinances relating to streets and sidewalks to apply to public squares and parks.**

All public squares and parks shall be subject to the provisions of this chapter and other ordinances relating to streets and sidewalks. A violation of section 74-26, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-58. Violations and penalties.**

The property owner shall display the assigned address in accordance with the requirements of this article. The failure of any person, firm or corporation owning a house, residential or nonresidential building or structure located on improved property to have affixed thereto or to have otherwise displayed the official street number of such property in accordance with the standards contained in section 74-57 shall be considered a violation of this article and an abatable nuisance. In addition to all other remedies provided by law, the community development department shall have authority to pursue enforcement of this section following notice from same. The property owner shall have five days from the date of the notice to correct

the deficiencies listed therein. If the individual receiving notice does not correct such deficiencies, the community development department shall have authority to secure injunctions and abatement orders to insure compliance through the appropriate division of the General Court of Justice.

A violation of section 74-58, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

(1) *Civil penalties.*

- a. *Assessment of civil penalties.* In addition to criminal penalties, any person, firm, or corporation violating any provisions of this article shall be subject to a civil penalty of \$100.00 to be recovered by the jurisdiction in a civil action in the nature of a debt if the offender does not pay the penalty within a prescribed period of time after being cited for violation of the ordinance. No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation by the community development department. Failure to correct the violation within five days of the date of service of the notice, or the end of the period of any extension, will result in the assessment of a civil penalty or other enforcement action. For good cause determined by the community development department, the correction period may be extended by same. Each day of continuing violation shall constitute a separate violation.
- b. *Referral to attorneys.* If payment is not received within 30 days after written demand for payment is made, the community development department may refer the matter to the jurisdiction's attorney who is authorized to institute a civil action in the name of the jurisdiction in the appropriate division of the General Court of Justice for recovery of the penalty.

- (2) *Other relief.* The jurisdiction's attorney, on behalf of the jurisdiction, may in addition to other remedies provided by law, institute injunction, mandamus, abatement, or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate, or address such unlawful action.

**Sec. 74-91. Removal of dangerous obstructions.**

The assistant city manager/public works or his designee shall cause all obstructions above, across or under the streets of the city which, upon investigation, may be found dangerous or unsafe to the public using such street, to be removed. If, upon investigation, such obstruction shall be found dangerous or unsafe for the public using the street, the assistant city manager/public works or his designee shall notify by first class mail the person maintaining such obstruction to remove the obstruction within a reasonable time, not exceeding five calendar days. Any person failing or refusing to obey the order directing the removal of such obstruction shall be guilty of a violation of this section. A violation of section 74-91, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-92. Porches, steps, fences and other structures.**

- (a) *Prohibited generally.* It shall be unlawful for any person to build, erect, construct or place any porch, steps, fence, wall or other obstruction whatsoever in or on any of the streets,

sidewalks or public alleys of the city. Each day any such obstruction is allowed to remain, beginning on the tenth day after notice was given by the chief of police or the assistant city manager/public works or his designee to remove the obstruction, shall constitute a separate offense.

- (b) *Directional signs installed by Old Salem, Inc.* It shall be lawful for small directional signs to be installed and maintained on any of the streets, sidewalks or public alleys of the city by Old Salem, Inc., giving the public information as to the location of Old Salem. The installation and maintenance of these directional signs shall be subject to the following conditions:
- (1) Old Salem, Inc., shall furnish and install these signs or markers, at its expense, at locations approved by the assistant city manager/public works.
  - (2) These signs shall be installed on metal standards or posts, and not attached to telephone or power poles. They shall be installed, insofar as possible, on the back side of the sidewalk, and in no case closer than to the back edge of the street curbing. The bottom of any sign shall be at least seven feet above the sidewalk.
  - (3) These signs shall be installed at locations which will not obscure the view of any street sign or traffic sign.
  - (4) Old Salem, Inc., shall be responsible for the installation, maintenance and upkeep of these signs, and shall protect and hold the city harmless against any cost, damage or expense arising from or growing out of the installation and maintenance of the signs.
  - (5) Any signs so installed shall be removed by Old Salem, Inc., at the request of the city should it be found necessary at any time for the city to use the space occupied by any sign or for any other necessary public purpose.
- (c) A violation of section 74-92, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-93. Notification of city prior to erection of stone, brick or concrete wall abutting street.**

It shall be unlawful for any person to begin the construction of any stone, brick or concrete wall abutting on any public street within the city without having first given the assistant city manager/public works 24 hours' notice in writing of his intention to do so. A violation of section 74-93, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-94. Awnings.**

- (a) *Permit required; conditions for issuance.* An encroachment permit is required for any awning which projects over any public street or sidewalk. The permit shall be issued by the assistant city manager/public works or his designee subject to the requirements or conditions stated in subsection (b) of this section and upon his determination that such awning does not or would not:
- (1) Be detrimental to the public health or safety; or
  - (2) Impair the free flow of pedestrian or vehicular traffic.

(b) *Standards; correction of deficiencies.* By applying for and accepting the benefit of any such permit issued by erecting such awning, the permittee agrees that:

(1) All such awnings shall comply with the state building code requirements.

(2) All such awnings shall be maintained free of tears, holes or breakages.

In the event of a deficiency in maintenance, the permittee shall be so notified by the assistant city manager/public works or his designee in writing. Upon the permittee's failure within 30 days to correct any and all such deficiencies or to remove the awning, the assistant city manager/public works or his designee may remove the awning and may go upon the permittee's property and do any and all things necessary to accomplish its removal. The costs of such removal shall be paid to the city by the permittee within 30 days of its removal.

(c) *Compliance by contractors.* It shall be unlawful for any awning contractor or workman to erect any awning or shed which does not conform to the requirements of this section.

(d) *Compliance by owners and occupants.* It shall be unlawful for the owner or occupant of the building to which any awning is attached to erect or permit to remain any awning or shed which does not comply with the requirements of this section.

(e) *Continuing violations.* Each day such unlawful obstruction is allowed to remain, after notice by the assistant city manager/public works, the superintendent of inspections or the chief of police to remove the obstruction, shall be a separate and distinct offense.

(f) A violation of section 74-94, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 74-95. Placing or storing materials on street or sidewalk.**

(a) *Building materials, boxes, crates, etc.* It shall be unlawful for any person to place in any street or alley or upon any sidewalk any building material, boxes, casks, stone, barrels, crates or other obstruction, and each day any such obstruction is permitted to remain, after notice to remove, shall constitute a separate offense; provided that this subsection shall not apply to any builder who has a permit to place material on streets or sidewalks.

(b) *Wood and coal.* It shall be unlawful for the purchaser, seller or any person in charge of any coal, firewood or fuel to place or permit such fuel to remain in any street after dark. It shall be unlawful for any person to permit any such wood, coal or fuel to remain in any street, at any time, so as to obstruct free passage in the street.

(c) *Skids and planks for receiving goods.* Merchants or other persons who obstruct the sidewalks by placing skids or planks across the sidewalk for the purpose of receiving goods are required to remove such skids or planks as soon as the goods are loaded or unloaded, and any such person failing to promptly remove such skids or planks shall be guilty of violating this section.

(d) A violation of section 74-95, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 74-96. Sale or display of goods on sidewalk.**

Except as provided in Articles IX and X of this chapter, it shall be unlawful for any person to obstruct entirely or in part any right-of-way, street or sidewalk of the city by displaying,

offering for sale, or selling, at auction or otherwise, any goods, wares, merchandise thereon. A violation of section 74-96, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-97. Cellar doors and other openings in sidewalk—Generally.**

- (a) *Standards.* Every cellar door or cellar covering which shall be made or constructed in the pavement or sidewalk of any street in the city shall:
  - (1) Be placed upon the same level as the surface of such pavement or sidewalk;
  - (2) Be of approved and substantial materials;
  - (3) Be securely fastened; and
  - (4) Be properly guarded or barricaded when open.
- (b) *Application for permit.* Before any opening shall be made in the sidewalk for a cellar door or covering, application shall first be made to the assistant city manager/public works, and the application shall set forth such information as to the location and plans for the construction thereof as the assistant city manager/public works shall require.
- (c) *Approval required.* No cellar door or cellar covering and no opening therefor shall be made or constructed until the approval of the assistant city manager/public works has been obtained.
- (d) *Maintenance.* Every cellar door, cellar covering, sidewalk light or sidewalk door constructed in the pavement or sidewalk of any street in the city shall be kept in good repair at all times.
- (e) A violation of section 74-97, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-98. Same—Failure to comply with order to repair.**

Any person, whose duty it is to keep a cellar door, cellar covering, sidewalk light or sidewalk door in repair, as provided in section 74-97, who shall fail or refuse to do so after three days' notice by the assistant city manager/public works, or any person under his authority, shall be guilty of a violation of this Code. A violation of section 74-98, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-99. Obstructing private alleys.**

- (a) *Prohibited.* Private alleys abutting separate lots belonging to separate owners and which may be used for the collection of garbage and for other purposes shall not be obstructed by either the abutting owner or by any other person, and such obstruction, either by a parked vehicle or otherwise, is hereby prohibited.
- (b) *Exception.* The provisions of subsection (a) of this section shall not apply to private alleys or driveways completely under the control of and subject to the sole use of a single property owner.

- (c) *Complaints; notice to remove obstruction.* Any person aggrieved by a violation of this section shall report his complaint to the police department, whereupon a representative of the police department shall notify the person violating subsection (a) of this section that a complaint has been made and notify such violator to obey and remove the obstruction within 12 hours. If the obstruction is not abated or removed within 12 hours from the time such notice is given, then the aggrieved person may obtain a criminal warrant, charging a violation of this section.
- (d) A violation of section 74-99, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-100. Acts or conditions necessitating special cleaning or repair of street, sidewalk or storm drain—Prohibited.**

- (a) Any act, neglect or omission, or any condition caused or allowed to continue, which creates or results in causing a condition in or upon any public street, sidewalk or storm drain which requires special cleaning or repair of such street, sidewalk or storm drain is hereby prohibited.
- (b) Prohibited acts, neglects, omissions and conditions which result in requiring special cleaning or repair shall include but shall not be limited to:
  - (1) The hauling of dirt, debris or materials removed from the sites of construction or reconstruction of buildings or structures, or waste materials of any kind, in such manner that any portion of such dirt, debris or materials is spilled, lost, dropped or left upon the streets or sidewalks.
  - (2) The depositing or leaving upon the streets or sidewalks of mud, dirt or any other material as a result of the use of trucks, construction equipment or machinery, regardless of whether such materials are spilled, lost or dropped in transit or are deposited upon the surface of the street or public property by the tires or wheels of such trucks, construction equipment or machinery.
  - (3) The grading of lots, land or driveways at elevations higher than street or sidewalk level or any other acts, neglects or conditions created or allowed to exist upon such property which result in mud, dirt, soil, gravel, debris or other materials being washed onto city streets or sidewalks or into the city storm drainage system.
- (c) Special cleaning or repair of streets, sidewalks and the storm drainage system shall be deemed to be required when their condition is such that the public health, safety, welfare or public use of the streets, sidewalks or storm drainage facilities is threatened, limited or impaired; the use and enjoyment of property abutting such streets or sidewalks is diminished or limited; or substantial damage is caused to the streets, sidewalks or drainage facilities or to such abutting property. The words "special cleaning or repair," as used in sections 74-100 through 74-102, shall include resurfacing, restoration of gravel and similar repairs made necessary by prohibited acts, neglects or conditions.
- (d) A violation of section 74-100, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-101. Same—Work to be done by city; records of costs.**

- (a) The public works department will clean and repair all streets, sidewalks and storm drains as and when special cleaning or repair is required by conditions defined in section 74-100(c).
- (b) The public works department will keep records of the costs of all such specially required cleaning and repair, which may be computed on the basis of established per-mile or per-hour cost of the use of city equipment, plus labor and materials, including water, likewise computed at cost to the city.
- (c) A violation of section 74-101, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-103. Encroachment agreements and permits; removal of nonpermitted or dangerous encroachments.**

- (a) *Encroachment permit required; conditions for issuance.* An encroachment permit is required for any encroachment under, above or across the streets or sidewalks of the city and for those encroachments issued pursuant to section 74-94. The assistant city manager/public works or his designee may issue encroachment permits subject to the requirements or conditions stated in subsections (b) and (c) of this section and upon his determination that such encroachment does not or would not:

- (1) Be detrimental to the public health or safety; or
- (2) Impair the free flow of pedestrian or vehicular traffic.

All other encroachments must be approved by the city council.

- (b) *Standards.* By applying for and accepting the benefit of any such permit issued to encroach under the streets or sidewalks of the city, the permittee agrees that all such encroachments shall comply with the terms of the permit and the state building code requirements.
- (c) *Correction of deficiencies.* The assistant city manager/public works or his designee shall cause all encroachments above, across or under the streets or sidewalks of the city to be removed where such removal is necessary to fulfill a public purpose or where, upon investigation, an encroachment violates the terms of this section, the encroachment permit or the state building code. The assistant city manager/public works or his designee shall send a letter directing the person constructing or maintaining said encroachment to remove or repair the encroachment within a reasonable time, not exceeding 60 days. Any person failing or refusing to obey the order directing the repair or removal of said encroachment shall be guilty of a violation of this section.
- (d) A violation of section 74-103, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-131. Permit required.**

It shall be unlawful for any person to make any excavation or do any other work which may cause a dangerous condition in or on any street, alley, sidewalk, public way or public place in the city unless a written permit therefor shall have been first obtained from the assistant city manager/public works or some other officer of the city vested with authority to grant the permit.

A violation of section 74-131, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-135. Failure to comply with permit; working under expired or revoked permit.**

It shall be unlawful for any person to neglect or refuse to comply with the provisions of the permit required by this article, or to make any excavation, do any work or continue the excavation or work after the expiration or revocation of the permit. A violation of section 74-135, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-137. Failure to comply with requirements of assistant city manager/public works.**

Any person refusing or failing to comply with the requirements of the assistant city manager/public works as provided in this article shall be guilty of a violation of this article. Where such failure or refusal is continued after notice from the assistant city manager/public works, every day's continuance shall constitute a separate and distinct offense. A violation of section 74-137, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-139. Guardrails and signal lights.**

It shall be unlawful for any person to make any excavation or do any work which may create or cause a dangerous condition in or on or near any street, alley, sidewalk or public place of the city, without placing and maintaining proper guardrails and signal lights, or other warnings, at, in or around the excavation or other work, sufficient to warn the public of such excavation or work, and to protect all persons using reasonable care from injuries on account of the excavation or other work. A violation of section 74-139, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-140. Dangerous excavations near street or sidewalk.**

It shall be unlawful for any person to make or cause to be made any excavations on any lot contiguous to any street or sidewalk, so negligently made or maintained that the excavation, by caving in or otherwise, may in any manner endanger or injure such street or sidewalk or the persons using the street or sidewalk. A violation of section 74-140, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-141. Street permit and restoration fees.**

Any person who desires a permit for any excavation in the paved or surfaced streets or public ways of the city shall be required to obtain a written permit from the assistant city manager/public works or some other authorized officer of the city and shall pay in advance, upon application for the permit, a minimum fee of \$300.00 for each excavation. The schedule of charges to be made by the city for restoring any paved street surface shall be the following:

- (1) City maintained street:

- a. A minimum fee of \$300.00 or \$7.25 per square foot for an area 90 square feet or less, whichever is greater; or
  - b. \$4.75 per square foot for an area greater than 90 square feet.
- (2) State maintained street:
- a. A minimum fee of \$300.00 or \$8.75 per square foot for an area 90 square feet or less, whichever is greater; or
  - b. \$8.25 per square foot for an area greater than 90 square feet.

A violation of section 74-141, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-142. Sidewalk permit and restoration fees.**

Any person desiring to make any excavation in any brick or concrete paved sidewalk or driveway along the public streets, alleys or public property of the city shall be required to obtain a written permit from the assistant city manager/public works or his authorized representative. The permit fee, payable in advance for sidewalk, driveway, or curb and gutter excavations, shall be a minimum of \$400.00 for each excavation. Restoration of sidewalk, driveway pavement, or curb and gutter shall be made in full units or blocks as originally marked off. The schedule of charges to be made by the city in restoring any brick or concrete sidewalk, driveway pavement, or curb and gutter if the same is not restored in accordance with the provisions of sections 74-136 through 74-138, shall be as follows:

- (1) A minimum fee of \$400.00 for concrete sidewalk repaired up to 25 square feet plus \$7.00 per square foot for an area exceeding 25 square feet.
- (2) A minimum fee of \$400.00 for concrete driveway repaired up to 20 square feet plus \$8.00 per square foot for an area exceeding 20 square feet.
- (3) A minimum fee of \$400.00 for brick sidewalk repaired up to 20 square feet plus \$8.00 per square foot for an area exceeding 20 square feet.
- (4) A minimum fee of \$400.00 for concrete curb and gutter repaired up to ten lineal feet plus \$30.00 per lineal foot for an area exceeding ten lineal feet.

A violation of section 74-142, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-143. Utility excavation permit required; fee.**

It shall be unlawful for any person to make any excavation, or do any other work in or on any street, alley, sidewalk, public way or public place in the city, for the purpose of any utility construction, unless a written permit therefor shall have first been obtained from the assistant city manager/public works or some other officer of the city vested with authority to grant the permit. The fee for the permit required by this section shall be \$340.00 per site of continuous installation of utility line. If construction is begun prior to obtaining the permit required by this section, the permit fee shall be \$680.00 per site. A violation of section 74-143, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-172. Materials for paving sidewalks; wheelchair ramps; installation in accordance with city standards.**

- (a) No materials other than concrete laid according to specifications of and under the supervision of the assistant city manager/public works shall be used for the construction or repair of sidewalks in the city, except that temporary patches may be made with other materials approved by the assistant city manager/public works and sidewalks now paved with brick may be repaired with brick, concrete or other paving materials approved by and laid according to the specifications of and under the supervision of the assistant city manager/public works; provided further that sidewalks in historic districts, as established and defined in the city zoning ordinance, may, upon approval of the Historic Resources Commission, be paved with brick or stone under the supervision of the assistant city manager/public works.
- (b) Pedestrian ways and areas in malls and sidewalks on streets within Growth Management Area 1 may, upon approval of the assistant city manager/public works, be paved with brick or other materials in accordance with the approved project specifications and under the supervision of the assistant city manager/public works.
- (c) It shall be the policy of the city to provide curb cuts, lowered curbs or ramps on sidewalks at all new intersections within the city, wherever feasible from an engineering and safety design standpoint. For the purposes of this section, the phrase "new intersections" shall include all places where new curb and gutter is to be placed, including maintenance projects. The location, construction standards and specifications for such curb cuts, lowered curbs and ramps shall be subject to approval by the assistant city manager/public works.
- (d) It shall be the policy of the city that all new streets within the adopted city street standards area shall be constructed in accordance with city standards. The construction standards for such curbs and gutters shall be subject to approval by the assistant city manager/public works and as per the infrastructure design standards.
- (e) A violation of section 74-172, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-173. Requirements for land platted into lots and streets—Generally; appeals.**

- (a) All persons owning or controlling lands which they propose to plat into lots and streets within the city limits or within the jurisdiction of the city shall, in the construction of such streets, conform not only to the city zoning ordinance but also to the grade approved by the assistant city manager/public works, and shall place thereon water and sewer mains and proper stormwater drainage of such material and under such specifications as provided by the assistant city manager/public works.
- (b) Any person feeling aggrieved by the requirements of the assistant city manager/public works may appeal to the city council.
- (c) A violation of section 74-143, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-178. Closing of streets under construction; use of closed streets prohibited.**

- (a) For the protection of the public and for the protection of the construction work in the city, the assistant city manager/public works is authorized to close any public alley, sidewalk or street on which the city or any contractor is engaged in doing excavating, ditching, grading, paving, repairing or any other engineering or construction work, or any other public works functions, when, in his opinion, he deems it necessary for the protection of the public or for the protection of the construction work of the city. The necessity for the closing of such public alley, sidewalk or street, the portion thereof to be closed, and the time during which it shall remain closed are hereby placed in the discretion of the assistant city manager/public works.
- (b) It shall be unlawful for any person other than approved workers to go upon or drive any vehicle over any part of a public alley, sidewalk or street which has been closed by order of the assistant city manager/public works, when reasonable notice of such fact is given by sufficient warnings or barriers.
- (c) A violation of section 74-178, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-274. Vendor's permit required.**

It shall be unlawful to sell, or offer for sale, any food, beverage or merchandise on foot or from any pushcart or mobile food unit on any right-of-way, street, sidewalk or public park within the city without first obtaining a permit therefore, pursuant to the provisions contained in this article, from the office of business inclusion and advancement. All persons who sell or offer for sale any food, beverage or merchandise from any licensed pushcart or mobile food unit shall display a city-issued identification badge. In addition to complying with this article, the vendor shall also comply with all applicable time, manner and place restrictions set forth in chapters 34, 38, 46 and 74 of the city code. A violation of section 74-274, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-276. Issuance and term of vendor's permit.**

- (a) Not later than ten days after the filing of a completed application for a vendor's permit, the applicant shall be notified by the office of business inclusion and advancement of the decision on the issuance or denial of the permit.
- (b) The community and business development department shall consider the standards set forth in sections 74-271, 74-272, 74-274, 74-276, 74-277, 74-278, 74-280, 74-282, 74-285, 74-286 and 74-287 in determining whether to grant a permit. If the issuance of the permit is approved, the city shall issue the permit and an identification badge for anyone who will sell or offer for sale any food, beverage or merchandise. If the permit is denied, the applicant shall be provided with a statement of the reasons therefore, which reasons shall be entered in writing on the application, and the permit application fee, in excess of \$100.00, shall be refunded. A permit issued pursuant to this section is valid for a period of one year, from July 1 to June 30.
- (c) In the event the permit holder hires any new employees, an identification badge must be obtained for the new employee by the permit holder from the city within five days of hiring.

Identification badges must be returned to the city upon leaving the employ of the permit holder.

(d) A violation of section 74-276, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-277. Vending of food from mobile food units and pushcarts.**

- (a) Vending of food and drink from licensed mobile food units is permitted throughout the city, with the following exceptions:
- (1) No mobile food unit shall vend food or drink within the public right-of-way of the primary pushcart vending area as defined in section 74-272, except that mobile food units may vend within the boundaries of construction sites.
  - (2) No mobile food unit shall vend within any designated historic district as defined in the city zoning ordinance.
- (b) Vending of foods, beverages and merchandise from pushcarts is permitted on any sidewalk in the primary pushcart vending area as defined in 74-272, and on that city property directly adjacent to the eastern boundary of that building known as the City Market, and at other locations throughout the city. Applications submitted for pushcarts outside the primary pushcart vending area must contain written permission from the adjacent property owner prior to consideration by the assistant city manager for public works. All pushcart locations, in or out of the primary pushcart vending area, must be approved by the assistant city manager for public works, per criteria defined in section 74-278; and shall be subject to the regulations contained in this article, as well as by applicable zoning regulations, except as otherwise provided in this Code. No pushcart shall vend in any area zoned "H" Historic District, or in that area on the south side of 1<sup>st</sup> Street between 4<sup>th</sup> and Broad Streets.

(c) A violation of section 74-277, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-278. Prohibited conduct by vendors.**

- (a) No vendor shall:
- (1) Vend within 300 feet of any hospital, city park (except Winston Square Park and the Wayne A. Corpening Plaza, where no vending will be permitted within 50 feet of the park or plaza), city lake or city recreational area, except with city approval, in connection with an approved event.
  - (2) Vend within 300 feet of any church, while such church is holding a religious service.
  - (3) Vend food within 50 feet of the entrance to any then-operating restaurant at the time the permit is issued.
  - (4) Vend on any street or sidewalk where vending is prohibited by zoning or otherwise.
  - (5) Vend between 9:00 p.m. and 7:00 a.m. of the following day in locations outside the primary pushcart vending area, and between the hours of 3:00 a.m. and 7:00 a.m. in that portion of the primary pushcart vending area zoned pedestrian business.
  - (6) Leave any pushcart or mobile food unit unattended.

- (7) Store, park or leave any pushcart overnight on any street or sidewalk, or park any mobile food unit other than in a lawful parking place in conformance with city and state parking regulations.
  - (8) Sell food or beverages for immediate consumption unless he has available for public use his own or a public litter receptacle which is available for his patrons' use and no more than ten feet distant from his pushcart or mobile food unit.
  - (9) Leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales made.
  - (10) Allow any items relating to the operation of the vending business to be placed anywhere other than in, on or under the pushcart or mobile food unit.
  - (11) Set up, maintain or permit the use of any table, crate, carton, rack or other device to increase the selling or display capacity of his pushcart or mobile food unit.
  - (12) Solicit or conduct business with persons in motor vehicles.
  - (13) Sell anything other than that which he is licensed to vend.
  - (14) Sound or permit the sounding of any device which produces noise, or use or operate any loudspeaker, public address system, radio, sound amplifier or similar device to attract the attention of the public, except for mobile ice cream units per section 46-35.
  - (15) Vend without the insurance coverage specified in section 74-275(7).
- (b) No foot peddler or vendor selling from a pushcart on the sidewalk shall:
- (1) Vend at any location where, following the installation of the pushcart, the remaining unobstructed width of the sidewalk is less than five feet.
  - (2) Vend within ten feet of an entranceway to any building.
  - (3) Vend within 50 feet of any driveway entrance to a police or fire station, or within ten feet of any other driveway or of any alley.
  - (4) Vend within ten feet of the crosswalk at any intersection.
  - (5) Vend within 20 feet of any bus stop sign.
  - (6) Vend within ten feet of any fire hydrant or fire escape.
  - (7) Allow the pushcart or any other item relating to the operation of the vending business to lean against or hang from any building or other structure lawfully placed on public property, without the owner's permission.
  - (8) Vend within 50 feet of another foot peddler or pushcart.

The regulations enumerated in this subsection shall not apply to pushcart vendors on that city property directly adjacent to the eastern boundary of that building known as the City Market.

- (c) It shall be unlawful for any foot peddler to sell or for any person to maintain any pushcart upon any street or sidewalk which impedes, endangers or interferes with the travel upon or use of the street or sidewalk. If it becomes necessary for the regulation of traffic or the safety or convenience of pedestrians, any law enforcement officer of the city may direct

vendors to temporarily remove to another location. No person may refuse to comply with a lawful order of a law enforcement officer when the order is given under the authority of this section.

- (d) No vendor vending from a mobile food unit shall:
- (1) Conduct his business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, or create or become a public nuisance, increase traffic congestion or delay, or constitute a hazard to traffic, life or property or an obstruction to adequate access for fire, police or sanitation vehicles.
  - (2) Stop, stand or park his vehicle upon any street, or permit it to remain there, except on the roadway at the curb for the purpose of vending therefrom.
  - (3) Stop, stand or park his vehicle upon any street for the purpose of selling, or sell on any street, under any circumstances, during hours when parking, stopping or standing has been prohibited by signs or curb markings or is prohibited by statute or ordinance.
  - (4) Stop, stand or park his vehicle within 50 feet of any intersection, except that vehicles vending products likely to attract children as customers shall park curbside when stopping to make a sale, as close as possible to a pedestrian crosswalk without entering the intersection or otherwise interfering with the flow of traffic.
  - (5) Remain in any one block more than three hours during any 24-hour period.
- (e) A violation of section 74-278, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-279. Size requirements for pushcarts.**

No pushcart shall exceed 36 inches in width or 72 inches in length. No pushcart shall exceed 60 inches in height. An exception to the size requirement may be approved by the assistant city manager for public works, if, in his or her professional opinion, a larger pushcart would not be drastically larger than the normal maximum dimensions, would not create a safety issue and would not reduce pedestrian access to a less than minimally acceptable amount. Any covering for a pushcart shall be limited to a single mast umbrella, attached to the pushcart. The umbrella shall be at least 78 inches in height at its lowest point, and shall not exceed eight feet in diameter when fully opened. Tent-like structures or canopies supported by multiple posts are specifically prohibited. A violation of section 74-279, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-280. Safety requirements for mobile food units.**

All mobile food units in or from which food is prepared or sold shall comply with the following requirements:

- (1) All equipment installed in any part of the vehicle shall be secured in order to prevent movement during transit and to prevent detachment in the event of a collision or overturn.

- (2) All utensils shall be stored in a manner to prevent their being hurled about in the event of a sudden stop, collision or overturn. A safety knife holder shall be provided to avoid loose storage of knives.
- (3) Compressors, auxiliary engines, generators, batteries, battery chargers, gas-fueled water heaters and similar equipment used in the storage, preparation or vending of food shall be installed so as to be accessible from outside the vehicle.
- (4) All health rules and regulations in 10 N.C.A.C. chapter 10, subchapter 10A, as amended, and any other applicable statutory provision shall be complied with.
- (5) A violation of section 74-280, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-281. Display of badges and permits by vendors.**

All permits and badges shall be displayed at all times during the operation of the vending business. A violation of section 74-281, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-282. Foot peddlers.**

Notwithstanding any other provision of this article, persons vending such items as balloons, pennants, tickets, newspapers or other items which, by their very nature, need no pushcart for storage and display, shall not be required to use a pushcart therefor. Such persons must, however, obtain a foot peddler's license pursuant to this article and must produce it for inspection upon request. A peddler selling on foot without a pushcart or vehicle may sell his goods in any location where a pushcart vendor with a permit pursuant to this article may sell goods. However, as is this case with pushcart vendors, pursuant to section 74-277(b), and in an effort to preserve the special historic and aesthetic interest and legacy of areas zoned "H" historic district, no foot peddler shall vend in any area zoned "H" historic district, or in that area on the south side of 1st Street, between 4th and Broad Streets; nor shall any foot peddler sell tickets outside an area zoned "H" historic district, or that area on the south side of 1st Street, between 4th and Broad Streets, for any event or tour intended to take place within. Such foot peddler shall comply with all the pushcart vendor requirements of this article, including all permit application requirements, and shall pay a permit application fee of \$25.00, in lieu of the \$85.00 (\$75.00 plus \$10.00) prescribed by section 75-275, but shall not have to meet the requirements pertaining particularly to pushcarts, such as those pertaining to the size requirements for pushcarts. However, unlike the requirement for pushcart vendors and foot peddlers, generally, in section 74-277(b), applications submitted by foot peddlers to conduct tours outside the primary pushcart vending area need not contain written permission from adjacent property owners prior to consideration by the assistant city manager for public works. For purposes of this article, foot peddlers shall not include charitable or benevolent non-profit corporations dedicated to the preservation and restoration of areas zoned "H" historic district, such as Old Salem, Incorporated. A violation of section 74-282, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-284. Special events generally; permit.**

- (a) *[Hours permitted; exceptions.]* No person may conduct or otherwise participate in any special event except between the hours of 8:00 a.m. and 9:00 p.m., except for events taking place in the central business district area only as defined by Legacy wherein the hours shall be from 8:00 a.m. until 12:00 midnight.
- (b) *Application for permit.* Application for a permit for a special event shall be filed with the office of business inclusion and development on forms provided by the city and shall be accompanied by payment of a permit application fee in the amount set forth below, which amount is based upon the number of events permitted during a 12-month period:

Special event permit (one to two events)\$50.00

Special event permit (series — three to five events)100.00

Special event permit (series — over five events)200.00

The above special event permit fee schedule shall apply to any event permit issued on or after July 1, 2014. All permits issued before said date shall remain valid unless otherwise suspended, withdrawn or revoked. Any proposed increase in the number of events authorized by a previously issued special event permit for an event series will require a new permit and a separate permit fee. For example, the applicant or permit holder already has a permit for a three to five event series. The applicant or permit holder now wants to increase the number of events within the same footprint of the previously approved special event permit from a three to five event series to a ten-event series. Provided the new application is approved, the fee for the additional special event permit will be \$100.00 instead of \$200.00 based upon the increased number of events.

- (1) *Filing period.* An application for a special event permit shall be filed with the office of business inclusion and development not less than 45 days before the time when it is proposed to conduct the special event. The office of business inclusion and advancement shall be in charge of processing the application which process shall include soliciting input from the appropriate city personnel from other city departments including but not limited to the chief of police or his designee.
- (2) *Contents.* The application for a special event permit shall set forth the following information:
  - a. The name, address, email address and telephone number of the individual and organization applying for a permit.
  - b. The name and addresses of persons who will be in direct charge of the special event and be present at the show.
  - c. A description of the type of special event and the hours of operation.
  - d. The names and portions of the streets to be closed for the purpose of displays and conducting the special event or the name and area of any city park or other public place in which the special event is to be conducted.
  - e. An affidavit: (1) stating that every resident and business within the area of the special event was contacted; (2) identifying the specific manner in which contact was made; and (3) listing by name, address, and telephone number, if available, each resident

- and business contacted. For multi-tenant buildings, it is acceptable to provide information to the building manager or head of the tenant association, provided that person agrees to distribute the information to all tenants and signs an affidavit stating that said information has been distributed as required.
- f. Any additional information which the City of Winston-Salem shall find reasonable and necessary to a fair determination as to whether a permit should be issued.
- (c) *Standards for issuance of permit.* The office of business inclusion and development shall issue a permit for a special event upon a finding that the application meets the requirements in this section, that the event will not unduly inconvenience or interfere with the orderly movement of traffic in the area involved, that property owners in the area are not unduly deprived of access to their property, that the event will not unduly interfere with normal business activity within the area of the street occupied by the event, that emergency vehicles will not be denied access to any person or property, and that adequate cleanup arrangements have been made. In addition, if the special event is to be located in a city park or other public place, the office of business inclusion and development shall be satisfied that adequate provisions and accommodations, including but not limited to scheduling accommodations, can be made for conducting such special event.
- (d) *Denial or withdrawal of permit.* The office of business inclusion and development shall act upon the application for a special event permit promptly. If the permit is denied, the applicant shall be provided with a statement of the reasons therefore, which reasons shall be entered in writing on the application, and the permit application fee shall not be refunded. A permit issued under this section may be withdrawn or revoked, if not withdrawn, in the event of any violation of conditions or misstatement of fact in the application, or in instances where the health or safety of the citizens will be adversely affected. The applicant of any permit so revoked shall be notified in writing of the revocation and the basis therefore. The denial or revocation of a permit may be appealed by the applicant to the city manager within 48 hours of notification of the denial or revocation. The appeal must be filed with the office of business inclusion and development within the aforementioned time. A hearing before the city manager or his designee shall be scheduled within 48 hours after receipt of the appeal. Within 48 hours after the hearing, the city manager or his designee shall notify the applicant of his decision in writing. The city manager's decision shall be final. No fees shall be refunded for any permit that is withdrawn, denied or revoked.
- (e) *Duration of permit.* Where a special event is to be conducted pursuant to a permit issued under this section, such special event may not extend for more than seven successive days without an intervening lapse period of at least one week.
- (f) *Vendors.* No sale of arts, crafts, food or other tangible items shall be permitted within the street or sidewalk area during the special event except under the auspices and control of the entity receiving the permit. Such entity shall be fully responsible for compliance with rules, regulations and ordinances of the city with respect to the special event being conducted pursuant to a permit issued thereunder. No vendor's permit shall be required for any exhibitor or vendor participating in a special event permitted by this section, nor, in order to avoid the interruption of the special event, shall any vendor's permit issued pursuant to this article be valid in the area of such special event while it is in operation.

- (g) *Criteria required.* A special event permit may be provided for an event series, provided the series meets each of the following criteria:
- (1) Each event in the series is conducted by the same entity.
  - (2) Each event in the series occurs in the same location or locations as specified in the application for a permit for a special event.
  - (3) The dates for each event in the series are predetermined and stated in the application for a special event permit, and such dates do not exceed 52 per year.
  - (4) The traffic control plan for each location remains the same, unless amended with the approval of department of transportation.
  - (5) The issuance of a special event permit for a series shall be valid for the duration of the series specified in the application for the permit, not to exceed 12 months.
  - (6) If the event fails to take place on two or more consecutive dates specified in the application, for reasons other than those beyond the control of the permit holder, i.e. weather, national disaster, etc., then the permit shall be canceled effective on the last date the event was held. No permit fees will be refunded.
- (h) *Animals prohibited; exceptions.* Notwithstanding any other provision of this Code to the contrary, no animal, except for appropriately restrained seeing eye dogs, shall be permitted on any street or sidewalk area closed for a special event pursuant to this article unless the animal is part of a bona fide exhibit being operated at the special event or parade.
- (i) *Sound amplifying equipment prohibited; exceptions.* Pursuant to city code section 46-33, an application must be filed with the office of business inclusion and advancement and the same approved before any sound amplifying equipment or a sound truck or other conveyance may be used in conjunction with a special event. Otherwise, the use of such sound amplifying equipment, sound truck or other conveyance is prohibited unless the sound amplifying equipment is being operated so that the sound from said equipment may be heard only through earphones. If a sound amplification permit is issued in conjunction with a special event permit, the sound application equipment may be used for the time period permitted for the special event.
- (j) *Inspection/release/indemnity.* The applicant, as a condition to receiving a special event permit, must sign an agreement that contains the following:
- (1) A statement accepting "AS IS" the area where the special event is to be located;
  - (2) A statement releasing and discharging the city, its officers, agents and employees, from any and all claims, demands, expenses, costs and liabilities of any kind or nature directly or indirectly related to any personal injury, including death, and/or property damage arising out of the special event, except those claims that were proximately caused by the negligence of the city or of a city employee acting within the scope of his employment with the city; and
  - (3) A statement in which the applicant agree to indemnify, defend and hold harmless the city, its officers, agents and employees from and against any and all claims, demands expenses, costs and liabilities of any kind or nature directly or indirectly related to any personal injury, including death, and/or property damage to the extent proximately

caused by the intentional, negligent or reckless acts or omissions of the applicant, and its agents, officers, employees or guests, in the performance of the special event.

(k) *Insurance.*

- (1) If the special event is to take place in the central business district, as defined by legacy, the applicant shall secure commercial general liability insurance to protect the applicant against any and all claims, demands expenses, costs and liabilities of any kind or nature directly or indirectly related to any personal injury, including death, and/or property damage to the extent proximately caused by the negligent acts or omissions of the applicant, and its agents, employees or guests, in the performance of the special event. The insurance shall also include coverage for liquor liability, explosion, collapse, and underground hazards, where applicable. This insurance shall provide bodily injury and limits of not less than \$1,000,000.00 for each occurrence and property damage limits of not less than \$1,000,000.00 for each occurrence. All insurance required under this subsection shall be written with a company licensed to do business in North Carolina. Such insurance shall name the city as an additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date except upon 30 days advance written notice to the city. Certificates of insurance for all of the insurance coverages described herein shall be submitted with the application for the permit.
- (2) If the special event is to take place outside of the central business district, as defined by legacy, the applicant shall secure the insurance required by subsection (1) if the applicant intends to provide any commercial services within the city's right-of-way. Commercial services shall be any paid for service, or service normally offered in return for payment, and shall include, but shall not be limited to, services such as caterers, live entertainment or inflatable bounce houses or rooms. The applicant may have the provider of the commercial services join on the application and include the commercial services provider's certificate of insurance to satisfy this requirement.
- (3) If the applicant is the State of North Carolina, or an agency thereof such as, but not limited to, Winston-Salem State University or the North Carolina School of the Arts, the City will accept a certificate of coverage issued by the North Carolina Department of Insurance pursuant to the North Carolina State Tort Claims Act, in lieu of the commercial general liability insurance required in subsection (1) above.

(l) A violation of section 74-284, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-285. Peddling of fresh farm products prohibited in primary pushcart vending area; exceptions.**

- (a) It shall be unlawful for any person to peddle fruit, vegetables, eggs, meats, flowers or other farm products upon any of the streets of the city within the primary pushcart vending area as defined in section 74-272.
- (b) This section shall not be construed to prevent the sale from pushcarts or mobile food units of individual items of fresh fruit for immediate consumption.

- (c) This section shall not be construed to prohibit the sale or delivery of such products to stores or markets. In inclement weather such products may be peddled in the tobacco warehouses of the city when permission is given therefor by the proprietor of the warehouse.
- (d) A violation of section 74-285, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-286. Sale of food or other merchandise in public parks, stadiums and recreation areas.**

Except in the case of an special event under a valid permit, it shall be unlawful for any person to sell or offer for sale any food, beverage or other merchandise of any description within the boundaries of any public park, stadium or recreational area, including city lakes, owned or operated by the city, whether within or without the corporate limits of the city, unless such person is acting within the scope of his employment as an employee of the city or is duly authorized to sell such merchandise at the place where it is being offered for sale under a valid subsisting contract or agreement between such person and the city or a commission or agency of the city. A violation of section 74-286, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-287. Peddlers operating outside primary pushcart vending area.**

This article shall not be construed to prohibit the vending or peddling of any merchandise outside the primary pushcart vending area. Peddlers vending pursuant to this section shall: (i) apply for and obtain a permit and city issued identification badge pursuant to the procedures set forth in 74-275(5) and 276(b), which badge must be displayed at all times while peddling; (ii) pay a permit application fee of \$25.00 if peddling the articles set forth in 74-282 while on foot without a pushcart or mobile food unit and comply with 74-274, 74-276, 74-278 (b) and (c), 74-281, 74-282, 74-286, 74-288 and 74-289; (iii) pay a permit application fee of \$75.00 if peddling articles other than or in addition to those set forth in 74-282 or if peddling with a pushcart or mobile food unit and comply with sections 74-274 through and including 74-281, 74-285, 74-286, 74-288 and 74-289. When peddling or vending within residential districts within the city, peddlers must comply with the time limits set forth in section 38-28. A violation of section 74-287, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

**Sec. 74-292. Sidewalk cafe; permit applications.**

- (a) *General.* Notwithstanding any other provisions of this Code to the contrary, sidewalk cafes shall be permitted at such locations and subject to such regulations as are set forth in this article.
- (b) *Permit required.* No restaurant may extend its dining operations into a sidewalk or pedestrian way without first obtaining a permit therefor in accordance with the requirements of this article.
- (c) *Application.* Any restaurant operator desiring to operate a sidewalk cafe shall prepare and file an application with the office of business inclusion and advancement which shall contain all of the following information:

- (1) The name, address and telephone number of the restaurant owned or operated.
  - (2) The name, address and telephone number of the restaurant operator. If a restaurant is operated by a person, firm, or corporation who is not the owner, the application shall be submitted by both, jointly.
  - (3) The types of food and beverages to be sold or served at the sidewalk cafe.
  - (4) The hours of operation of the restaurant and the proposed hours of operation of the sidewalk cafe.
  - (5) A site plan showing the section of sidewalk or pedestrian way to be used for the sidewalk cafe and the section to be kept clear for pedestrian use, and depicting the proposed placement of tables, chairs, barricades and other furnishings within the sidewalk or pedestrian way.
  - (6) Evidence of insurance and a statement of indemnity as required by this article.
  - (7) A copy of all permits and licenses issued by the State of North Carolina, Forsyth County, or the city necessary for the operation of the restaurant business or for the construction or alteration thereof, or a copy of the application for such permit if no permit has been issued. No sidewalk cafe permit shall be approved until all other required permits and licenses have been obtained.
  - (8) A sworn statement describing any violation by the restaurant operator of any laws, regulations or ordinances relating to the possession, sale, consumption or transportation of intoxicating beverages or controlled substances during the five years immediately preceding the date of the permit application.
  - (9) Such additional information as may be requested by the office of business inclusion and advancement to determine compliance with this article.
  - (10) A permit application fee of \$100.00.
- (d) *Issuance of permit.* No permit for the operation of a sidewalk cafe may be issued unless the application is complete and the following requirements are met:
- (1) The restaurant to which the sidewalk cafe is associated must be located within the central business or pedestrian business zoning districts.
  - (2) The sidewalk cafe must share the same management and same food preparation facilities as the restaurant to which it is associated. The sidewalk cafe must be operated under the same name as the restaurant and may not be open or operated at any time when the restaurant is not open for business. Sidewalk cafes may operate at any time between the hours of 6:00 a.m. and 1:00 a.m. Sunday through Wednesday, and 6:00 a.m. to 2:00 a.m. on North Carolina state holidays, Thursday, Friday and Saturday. At the end of each business day the restaurant operator shall clean and remove all refuse from the sidewalk cafe area.
  - (3) The operation of the sidewalk cafe must be clearly incidental to the associated restaurant business. The seating capacity of the sidewalk cafe may not constitute more than 50 percent of the interior seating capacity of the restaurant.

- (4) The placement of tables, chairs, and other furnishings, as shown on the site plan must leave five feet of unobstructed space (in the case of a sidewalk, as measured from the street-side edge of the sidewalk, and in the case of a pedestrian way, as measured from the edge of the pedestrian way farthest from the sidewalk cafe) on the sidewalk or pedestrian way for the passage of pedestrians. Fire exits or lanes and wheelchair ramps must remain free of obstructions at all times.
  - (5) The restaurant seeking to operate a sidewalk cafe must front on and open onto the sidewalk or pedestrian way proposed for such sidewalk cafe. The placement of tables, chairs, and other furnishings may not extend beyond the sidewalk or pedestrian way frontage of the associated restaurant unless permission of the abutter to do so has been granted to the restaurant operator in writing and filed with the office of business inclusion and advancement.
  - (6) In the event that any local, state or federal law or regulation requires the area designed for the sidewalk cafe be physically separated from the remaining sidewalk or pedestrian way by a barricade, then such barricade must be constructed of materials of a finished quality, including, but not limited to, wrought iron, planters, picket fences, or velvet ropes. No signs shall be placed on the barricades. Amplified or live music emanating from the restaurant operation or the sidewalk cafe shall not be able to be heard further than 50 feet from the barricades or the perimeter of the sidewalk cafe in the absence of a barricade.
  - (7) The tables, chairs, barricades, and other furnishings used in the sidewalk cafe shall be of a type that is easily removed from the public right-of-way. If the permit is revoked, table, chairs, barricades and other furnishings used in the operation of the sidewalk cafe must be removed within 24 hours notice from the city, and if not so removed, the city shall have the right to remove and dispose of these items and may assess the property owner for the cost of such removal and disposal. The city shall also have the right to remove any and all such items immediately in emergency situations. The city shall not be responsible for damage to such barricades or furnishings under any circumstances.
  - (8) Except as elsewhere permitted, the operation or furnishing of the sidewalk cafe shall not involve any permanent alteration to or encroachment upon any sidewalk or pedestrian way. The restaurant operator of the sidewalk cafe shall be responsible for repairing any incidental damage to public improvements resulting from its operation.
- (e) *Inspection/release/indemnity/insurance.* The restaurant owner, as a condition to receiving a sidewalk cafe permit, must sign an agreement that contains the following:
- (1) A statement accepting the sidewalk cafe area "AS IS";
  - (2) A statement releasing and forever discharging the city, its officers, agents and employees, from any and all claims, demands, expenses, costs and liabilities of any kind or nature directly or indirectly related to any personal injury, including death, and/or property damage arising out of the granting of a permit pursuant to this article, except those claims that were proximately caused by the negligence of the city or of a city employee acting within the scope of his employment with the city;

- (3) A statement agreeing to indemnify, defend and hold harmless the city, its officers, agents and employees from and against any and all claims, demands expenses, costs and liabilities of any kind or nature to the extent proximately caused by the intentional, negligent or reckless acts or omissions of the restaurant operator, its agents, officers, employees or guests; and
- (4) Evidence that the restaurant operator has secured commercial general liability insurance to protect the restaurant against any and all claims, demands expenses, costs and liabilities of any kind or nature directly or indirectly related to any personal injury, including death, and/or property damage to the extent proximately caused by the negligent acts or omissions of the restaurant operator; its employees, officers or agents. The insurance shall also include coverage for liquor liability, explosion, collapse, and underground hazards, where applicable. This insurance shall provide bodily injury limits of not less than \$1,000,000.00 for each occurrence and property damage limits of not less than \$1,000,000.00 for each occurrence. All insurance required under this subsection shall be written with a company licensed to do business in North Carolina. Such insurance shall name the city as an additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date except upon 30 days advance written notice to the city. Certificates of insurance for all of the insurance coverages described herein shall be submitted with the application and maintained for the duration of the sidewalk cafe permit, and any renewals thereof.
- (f) *Malt beverages and unfortified wine.* The consumption of malt beverages, unfortified wine and other alcoholic beverages in compliance with all state and local laws and regulations shall be permitted in a sidewalk cafe, and this shall be an exception to the general prohibition of such consumption on street rights-of-way provided in sections 38-6 and 38-9 of the City Code.
- (g) *Issuance of permit; denial.* The office of business inclusion and advancement shall examine the application and determine whether all of the requirements stated in this article for the issuance of a permit have been satisfied. If all such requirements have been satisfied, then the office of business inclusion and advancement shall issue the permit. If the permit is denied, the applicant shall be provided with the reasons therefor in writing, and the permit application fee shall not be refunded.

Except as otherwise provided herein, the permit shall remain valid for one year unless revoked, rescinded, or withdrawn. If all of the information contained within the application, site plan and insurance agreement remains valid and there are no changes, the application and permit may be renewed for one additional year based upon the prior year's application provided the permit holder provides: (i) an updated insurance certificate; and (ii) copies of any additional permits that will need to be updated. A permit may be renewed in this manner a total of three times before the permit holder has to submit a new application. Permits renewed in this manner shall not be issued until the permit holder pays the requisite permit renewal fee of \$25.00 (per renewal).

- (h) *Permit revocation.* The office of business inclusion and advancement may revoke a permit issued pursuant to this article if it is determined that the restaurant operator has:
  - (1) Misrepresented or provided false information in the permit application.

- (2) Violated any provision of this article, Forsyth County Health Department regulations, or ABC regulations.
- (3) Violated any law, regulation or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances.
- (4) Operated the sidewalk cafe in such manner as to create a public nuisance or to constitute a hazard to the public health, safety, or welfare, specifically including failure to keep the sidewalk cafe area clean and free of refuse at end of each business day.
- (5) Failed to maintain any health, business or other permit or license required by law for the operation of the restaurant associated with the sidewalk cafe.
- (6) Failed to comply with the insurance requirements of this section or any other conditions upon which the permit or any renewals thereto was issued.
- (7) Operated the sidewalk cafe in violation of any city, county or state law, ordinance or regulation. Before the revocation of a permit, the office of business inclusion and advancement shall notify the permit holder of its intent to revoke the permit and the reasons therefor. The permit holder shall have ten days from receipt of such notice to file an written appeal of the proposed revocation, along with a statement of the grounds for the appeal, with the assistant city manager for public works or his designee, who shall afford the permit holder a reasonable opportunity to appear and be heard on the question of such revocation. After the hearing, the assistant city manager for public works or his designee shall notify the permit holder in writing of his decision and the reasons therefor. The decision of the assistant city manager for public works shall be final.

After the hearing, the assistant city manager for public works or his designee shall notify the permit holder in writing of his decision and the reasons therefor.

- (i) *Reservation of rights.* The city reserves the right to require any sidewalk cafe established pursuant to this article to cease part or all of its operation in order to allow for construction, maintenance or repair of any street, sidewalk, utility, or public building by the city, its agents or employees, or by any other governmental entity or public utility; to allow for use of the street or sidewalk in connection with parades, civic festivals and other events of a temporary nature as permitted by the city; and to remedy a public nuisance or to protect the public health, safety, or welfare.
- (j) *Term, transfer, renewal, etc.* Permits issued in accordance with the provisions of this article shall:
  - (1) Be issued for the period beginning July 1 or thereafter and expiring June 30th of the subsequent year. Any permit issued between January 1, 2014 and June 30, 2014 shall remain effective until June 30, 2015 provided the applicant pays an additional fee of \$65.00 by September 30, 2014. Otherwise, said applicant will have to pay the full \$100.00 permit fee to have the permit extended to June 30, 2015. If a permittee discontinues the restaurant operation or the sidewalk cafe, no refund of the permit fee shall be made.
  - (2) Be in addition to the annual privilege license required pursuant to chapter 34 of the City Code.

(3) Not be transferable or assignable.

(k) A violation of section 74-292, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

## **CHAPTER 78 VEHICLES FOR HIRE**

### **Sec. 78-2. Violations of chapter; civil penalties ~~and misdemeanor offenses.~~**

(a) It shall be unlawful for any person to engage in the vehicle for hire business within the corporate limits of the city, or to transport passengers in a vehicle for hire, within the corporate limits of the city, unless such person complies with the provisions of this chapter. A violation of any provisions of this chapter, ~~save and except sections 78-3, 78-41, 78-49, 78-82, 78-111, 78-113, 78-114, 78-142, 78-171, 78-173, 78-175, 78-176, 78-177, 78-178, 78-182, 78-188, 78-201, 78-202, 78-203, 78-204, 78-205, 78-206, 78-207, 78-208, 78-231, 78-232, 78-233 and 78-234,~~ shall subject the offender to a civil penalty, ~~however, no such violation shall constitute a misdemeanor or infraction, under G.S. 14-4, unless the specific section so states.~~ The following subsections (1) through (5) shall be deemed to be expressly incorporated by reference within each section of this chapter, ~~save and except those sections referenced in the preceding sentence:~~

- (1) A violation of this section, or any part thereof, shall subject the offender to a civil penalty of \$75.00 each day the violation continues until corrected. Any subsequent violation which follows within 12 months of a previous violation shall be assessed a civil penalty of \$150.00 each day the violation continues until corrected.
- (2) The assessment of a civil penalty may be initiated by the taxicab inspector, by the giving of a written notice of the violation, along with a statement that a civil penalty shall be imposed. The notice shall inform the recipient that s/he may appeal the civil penalty within ten days of the date of the notice, to the city manager, by filing a written request with the taxicab inspector. If an appeal is made, a hearing shall be held before the city manager, within ten days of the request for appeal, which hearing shall affirm, reduce, or reverse the imposition of the penalty. The decision of the city manager shall be final.
- (3) If *no* appeal is made, a civil penalty must be paid within 30 days of the date of the notice of violation. If an appeal *is* made, and the civil penalty is affirmed or reduced, but not reversed, then the civil penalty must be paid within 30 days of the date of the city manager's decision. The amount of the penalty shall be paid to the revenue division of the city. If the penalty is not paid within the allotted time, the city may initiate a civil action to collect the unpaid penalty, in the nature of a debt.
- (4) Owners shall be responsible for their drivers' and sub-owners' actions and compliance with this chapter. Any violations of this chapter by a driver or sub-owner, which are non-criminal in nature, shall be imputed to the owner, whose responsibility it shall be to obtain compliance herewith.
- (5) No certificate or driver's permit shall be issued or renewed, unless and until all civil and criminal penalties assessed against the applicant, or any sub-owner, driver, or employee of the applicant, under this chapter, have been paid in full.

### **Sec. 78-3. Insurance.**

~~A violation of the requirement in this section to maintain in full force and effect the applicable insurance policy, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00 and/or possible revocation of certificates.~~

- (1) No person shall operate or cause to be operated any taxicab without first furnishing proof of commercial insurance, as required by G.S. 20-280 or any superseding statute, with minimum limits of \$100,000.00 per person, \$300,000.00 per accident for bodily injury, and \$50,000.00 per accident for property damage. No person shall operate or cause to be operated any limousine over the streets of the city without first furnishing proof of commercial insurance, as required by G.S. 20-280 or any superseding statute, with minimum limits of \$1,500,000.00. If a taxicab or limousine is owned by a person who operates under the certificate of another, the holder of the certificate shall be named as an additional insured on the insurance policy.
- (2) No vehicle for hire shall be operated within the city, unless an insurance policy with an insurance company authorized to do business in North Carolina, is in full force and effect, and an original, signed certificate of insurance, evidencing such policy has been filed with the risk administrator, or his or her designee, and unless the vehicle is registered and a registration card identifying the vehicle by motor serial number is carried in the vehicle, which certificate must be displayed upon demand by any police officer.
- (3) Each taxicab owner or sub-owner must provide to the risk administrator, or his or her designee, every six months, proof of insurance coverage in full force and effect, in compliance with the minimum limits set forth in subsection (2), above, for every vehicle operated under his or her certificate. Within 15 business days of receiving information concerning an upcoming insurance cancellation, reduction in coverage, or other material change in any insurance policy issued for any vehicle operated pursuant to his or her certificate, the owner or sub-owner shall provide written notice of said change to the risk administrator, or his or her designee. If the owner or sub-owner does not file proof of another insurance policy before a cancellation becomes effective, use of all vehicles for hire covered by the expired policy shall cease, and the owner's or sub-owner's certificate of public convenience and necessity, and other rights under this chapter, shall be automatically suspended, and subject to the revocation procedure set forth in section 78-50.
- (4) The requirements of this Code relating to the filing of an insurance policy with the risk administrator or his or her designee, shall be deemed to be met upon the filing of a certificate of insurance, issued by an authorized agent of an insurance company authorized to do business in North Carolina, showing that a policy of insurance meeting the requirements of this section, and G.S. 20-280, as amended, has been issued to the owner or sub-owner, and is in full force and effect.

### **Sec. 78-41. Certificate required; eligibility; fees.**

- (a) It shall be unlawful for any person, other than a person with whom the city has a contract for the operation of sight-seeing vehicles, to operate, or cause to be operated, any vehicle for hire within the city, and to pick up passengers therewith, unless a certificate of public

convenience and necessity for the operation of such vehicle has been issued and is in effect. ~~A violation of this subsection shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.~~

- (b) The minimum number of taxicabs for which a certificate of public convenience and necessity shall be granted shall be two. The minimum number of limousines for which a certificate of public convenience and necessity shall be granted shall be one.
- (c) The holder of a certificate shall maintain in operation at least 50 percent of the vehicles authorized by his or her certificate, but, in no case, shall the owner operate fewer than the minimum number of vehicles required by subsection (b), above. The holder shall have three months from the date that his or her certificates were issued to bring into operation the 50 percent required. Thereafter, the holder shall report at least quarterly to the city council the average number of vehicles actually in operation during the preceding quarter. The holder shall determine the average by adding the number of vehicles operated each day of the preceding quarter and dividing the sum by the number of days in the quarter.

The city council may amend a certificate to reduce the number of authorized vehicles by the average number not in actual operation during the preceding quarter, and may either eliminate the unused allotment or transfer it to another certificate holder. Allotments of vehicles among certificate holders may be transferred only by the city council, and it shall be unlawful for any holder of a certificate to sell, assign, or otherwise transfer allotments under a certificate.

- (d) There shall be separate certificates for the various classes of vehicle for hire. If a vehicle for hire meets the criteria for classification as a taxicab, then the vehicle must be authorized to operate under a certificate of public convenience and necessity for taxicabs. If the vehicle meets the criteria for classification as a limousine, then the vehicle must be authorized to operate under a certificate for limousines. An owner may not operate both taxicabs and limousines under the same certificate. The owner shall be responsible for obtaining the appropriate certificate, insurance, and license plates for the type of vehicle operated.
- (e) Owners shall file with the taxicab inspector their hours of operation. Owners or their designees shall, thereafter, be available during hours of operation. Owners' designees shall be people with managerial authority, who may act on behalf of the business.
- (f) The owner's business shall possess equipment, as required by section 78-113, personnel, and other resources adequate to operate the business.
- (g) Upon issuance to the owner of the certificate of public convenience and necessity, the owner shall be responsible for compliance with all standards and requirements of this chapter.
- (h) Each application for a certificate of public convenience and necessity shall be accompanied by payment to the city of a non-refundable application fee of \$100.00.
- (i) Each owner or holder of a certificate of public convenience and necessity shall, upon the issuance thereof and yearly thereafter, pay to the city a vehicle and records inspection fee of \$35.00 per vehicle, for each vehicle authorized under the certificate, regardless of whether the vehicle is in operation. The city shall send the owner an invoice for the amount of the fee, and the fee must be paid within 90 days of the date of the invoice.

- (j) The city council may suspend or revoke the certificates, pursuant to section 78-50, of any owner who violates a provision of this section.

**Sec. 78-49. Expiration; renewal; transfer.**

- (a) All certificates of public convenience and necessity shall expire on December 31 of the third calendar year after such certificate is granted. By August 31, preceding the December 31 expiration, the department of transportation shall notify the owner, in writing, of the upcoming expiration.
- (b) An owner may apply to renew a certificate by filing an application with the department of transportation. Applications shall be available online and in the department of transportation. An application to renew a certificate issued hereunder must be complete, and must be accompanied by a \$100.00, non-refundable application fee.
- (c) If requested, the owner must furnish the records and reports identified in article III, and any other proof requested to show that his or her business has complied with all the requirements of this chapter, including the requirements to maintain records and reports, conduct inspections, and perform maintenance under article V. Additionally, the owner applying for a renewal must comply with all licensing and zoning requirements, furnish proof of insurance, as required under section 78-3, and certify that the he or she had inspection stickers on all vehicles operating under his or her certificates during most, if not all, of the previous year. For taxicabs, the owner must also provide the motor vehicles form for operations.
- (d) An owner may be ineligible to have his or her certificate renewed, for any of the grounds outlined in section 78-50.
- (e) If an owner applies to the department of transportation for renewal of his or her certificate, prior to its expiration, the city council shall renew such certificate, without public hearing, in the absence of any evidence to indicate that the holder of the certificate is not in compliance with the requirements of this chapter.
- (f) Effective on the last business day of October 2010, the holder of a certificate must be the individual, corporation, limited liability company, partnership, or other legal entity that has a controlling interest in, or managerial authority over, the business which operates under the certificate, or in whose name the business is registered on the North Carolina Secretary of State's website. This subsection shall not be construed to affect sub-owners who own vehicles which operate under a certificate, but who do not own a controlling interest in, or have managerial authority over, the business of the owner, and who are not registered owners or principals of the business.
- (g) A certificate of public convenience and necessity shall not be transferable without prior approval of the city council. The transfer to, or acquisition by, any person not named in the application for a certificate, of any financial interest, such as majority control or a controlling interest, in the vehicle for hire business of the holder, shall constitute a transfer of the certificate, and shall be grounds for revocation of the certificate by the city council, unless such transfer or acquisition of interest shall have first been approved by the city council.

The term "transfer to, or acquisition by, any person of any financial interest", as used in this section, shall not include such financial interest as a lending institution or seller may acquire, as a result of loans made, or credit extended, to the owner, in connection with the purchase of vehicles or other equipment. City council approved transfers may take place at any time during the calendar year, and the filing deadlines indicated in section 78-42 shall not apply. In all other respects, such requests for transfer will be treated, procedurally, as new applications for certificates, as specified in sections 78-41, 78-42, and 78-43, except that the denial of an application for transfer will result in the certificate's remaining with the existing holder of record. ~~An unauthorized transfer of a certificate shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00, and/or possible revocation of certificates.~~

### **Sec. 78-50. Suspension or revocation.**

- (a) *Grounds.* A certificate of public convenience and necessity may be suspended or revoked by the city council for the following causes:
- (1) Failure to operate the number of vehicles required within the time limits specified in subsections 78-41(b) and (c) and 78-46(c).
  - (2) Failure to maintain vehicles in good order and repair, including obtaining annual inspections thereof, as documented in an inspection log maintained by the owner.
  - (3) Failure to maintain insurance as required by this chapter.
  - (4) Failure to pay inspection and business license fees due to the city for the operation of vehicles for hire, within 90 days of the date of the first invoice.
  - (5) Failure to report any traffic accident involving a vehicle for hire.
  - (6) Unauthorized transfer of a certificate, as such is defined in subsection 78-49(g).
  - (7) Failure to furnish an annual financial statement, pursuant to section 78-85.
  - (8) Failure to register, or cause to be registered, with the department of motor vehicles, in the correct and true vehicle owner's name, any vehicle covered by the owner's certificate. This requirement shall apply to all vehicles, whether owned by an owner or sub-owner.
  - (9) (a) Driving, or permitting a driver to drive, a vehicle for hire, who has been convicted of a felony, in violation of any federal or state statute, within the five years immediately preceding the driver's most recent application for a driver's permit or renewal thereof, or who has been subsequently convicted of a felony following the driver's receipt of his or her current driver's permit.
  - (b) Driving, or permitting a driver to drive, a vehicle for hire, who has been convicted of a class B misdemeanor relating to:
    - a. possession, use, sale, or distribution of alcoholic beverages or narcotic or barbiturate drugs,
    - b. sexual assault or indecent exposure,
    - c. illegal possession, use, or threatened use of a firearm,
    - d. actual or attempted infliction of serious injury, or

e. prostitution,

within the year immediately preceding the driver's most recent application for a driver's permit or renewal thereof, or who has been subsequently convicted of such a misdemeanor following the driver's receipt of his or her current driver's permit.

For purposes of this chapter, "conviction" shall include receipt of a "prayer for judgment continued" and entry of an Alford or no-contest plea. For purposes of this chapter, "class B misdemeanors" shall include those offenses listed in the most recent edition of the North Carolina Department of Justice's Class B Misdemeanor Manual. "Class B misdemeanors" shall also include any act committed or omitted in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of any jurisdiction other than North Carolina, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of more than six months, but not more than two years. Specifically excluded from this grouping of "class B misdemeanor" criminal offenses for jurisdictions other than North Carolina, are motor vehicle or traffic offenses designated as being misdemeanors under the laws of other jurisdictions, with the following exceptions: offenses of driving while impaired if the maximum allowable punishment is for a term of more than six months, but not more than two years, driving with a license that is permanently revoked or permanently suspended, and those traffic offenses occurring in other jurisdictions which are specifically listed in the Class B Misdemeanor Manual.

- (10) Driving, or permitting a driver to drive, a vehicle for hire, who habitually violates traffic laws or ordinances. For purposes of this section, habitual violation shall include:
- a. Five or more traffic charges that result in convictions, as defined in subsection (9), above, or reductions to infractions, such as "improper equipment", during the three-year period immediately preceding the driver's most recent application for a driver's permit, or renewal thereof.
  - b. Five or more convictions for traffic safety infractions during the three-year period immediately preceding the driver's most recent application for a driver's permit or renewal thereof.
  - c. Five or more convictions for traffic offenses or infractions, combined, during the three-year period immediately preceding the driver's most recent application for a driver's permit, or renewal thereof.
- (11) Permitting any driver convicted of any of the crimes or offenses listed in subsections (a)(9)(a), (a)(9)(b), or (10) of this section to drive a vehicle for hire, unless the driver has been issued a provisional driver's permit, under subsection 78-181(b), or the driver's conviction has been reviewed by the city attorney's office, and its consent given for that driver to drive a vehicle for hire. Factors to be considered shall include: (a) the circumstances of the crime or offense and (b) the conduct of the driver in the intervening time since the date of conviction or release from incarceration, including whether the driver has accrued any outstanding charges in the interim. ~~A violation of this subsection shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.~~

- (12) Permitting any driver who has not furnished proof of a valid North Carolina driver's license, or whose license has been suspended or revoked, to drive a vehicle for hire.
  - (13) False or misleading statements on the application for the certificate, including any representation by the applicant that they own a controlling interest in, or have managerial authority over, the business which operates under the certificate, if, in fact, they do not, or any statement by the applicant that the business is registered in the applicant's name if, in fact, it is not.
  - (14) Owner's failure to pay, or secure the payment of, parking tickets incurred by any vehicle for hire registered in the owner's name and operating under the owner's certificate, within one year from the date the tickets are issued.
  - (15) Failure to notify the taxicab inspector of the employment or dismissal of any driver or dispatcher, within seven business days, as specified in section 78-187, and the reason for the dismissal of any driver, if that reason would have prevented the driver from renewing his or her driver's permit.
  - (16) Failure to provide motor vehicle forms for operation for taxicabs.
  - (17) A sub-standard quality of service, which shall be determined by the volume and veracity of complaints, pursuant to a thorough investigation by the taxicab inspector.
  - (18) Failure to comply with any other provisions of this chapter or any other law or ordinance regulating the operation of vehicles for hire within the city.
- (b) *Procedure.* No certificate shall be suspended or revoked until the owner has had at least ten days' notice by personal service or by certified mail of the time and place for a hearing thereon, and the grounds for suspension or revocation, provided that if the city council determines, in its discretion, that circumstances affecting the public health or safety warrant an immediate suspension, before the requisite notice can be given, then such a suspension shall take effect upon decision of the city council and shall persist until a hearing can be held, for which the requisite notice shall be given. A hearing, pursuant to an immediate suspension, shall take place within 90 days of the suspension, and notice shall be given by publication of a notice of public hearing, in a newspaper of general circulation, in the city, which notice shall be published at least once, not fewer than ten days prior to the hearing. After the hearing, the city council shall have the power to suspend, continue the suspension of, or revoke a certificate, or to forebear suspending or revoking a certificate, upon condition that the certificate holder comply with certain measures, within any time fixed by the city council.

### **Sec. 78-82. Daily manifests.**

The owner shall require every driver to maintain a daily manifest upon which shall be recorded for every trip, the place of origin and destination of each, the amount of fare charged, the number of passengers, and the time of pick-up and drop-off. Each trip shall be recorded immediately after completion. Manifests shall indicate the time a driver's shift starts and ends, and shall be returned to the owner at the conclusion of the driver's daily tour of duty/shift on forms previously approved by the taxicab inspector. The owner shall retain and preserve all driver' manifests in a safe place for a period of at least 90 days, and shall make such manifests available for inspection by the taxicab inspector. The preceding requirements shall not apply to

limousines or to owners and drivers using a computerized dispatch system which logs, records, and retains all of the foregoing information, provided that, in the case of an owner which uses a computerized dispatch system, all the information required to be recorded in a daily manifest shall be retrievable from the system, and shall be made available for inspection by the taxicab inspector for a period of at least 90 days following each trip. ~~A violation of this section by either driver or owner shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00 and/or possible revocation of the driver's permit or owner's certificate, whichever is applicable.~~

#### **Sec. 78-113. Identification of taxicabs.**

- (a) All taxicab companies shall adopt a color scheme for painting their taxicabs, distinct from that of any other taxicab company operating in the city. The color of paint selected to paint letters and numbers shall be in sharp contrast to the background.
- (b) Color schemes of taxicab companies shall be submitted to the taxicab inspector.
- (c) All taxicabs of a particular company shall be given the same color scheme and markings before being placed into service.
- (d) The name of the taxicab company and the taxicab number shall be painted with permanent paint, or affixed with non-magnetic decals, on both sides of the vehicle, and the taxicab number shall also be painted on, or affixed to, the rear of the vehicle. Letters and numbers shall be clearly visible from a reasonable distance.
- (e) This section shall not apply to limousines.
- ~~(f) Any violation of this section shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.~~

#### **Sec. 78-114. Addition and removal of vehicles.**

No vehicle shall be placed into service, without prior written notification to the taxicab inspector. An owner may remove a vehicle from service at any time, but shall promptly notify the taxicab inspector thereof. ~~Any violation of this section shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.~~

#### **Sec. 78-142. Certificate of inspection by certified safety inspector; city-issued decal.**

- (a) Each owner shall cause every vehicle for hire under his or her certificate, to be inspected by a certified safety inspector at least once per year. Any repair required to be made prior to the issuance of a state-issued certificate of inspection shall be performed, and every vehicle for hire shall at all times display a current certificate indicating that the vehicle has passed state inspection. ~~Any violation of this subsection (a) shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.~~
- (b) Each vehicle shall also be inspected by the taxicab inspector to ensure compliance with this chapter. Any vehicle found to be out of compliance shall not be driven until such time as the vehicle is brought into compliance and proof of compliance or repair is provided to the taxicab inspector. Once a vehicle is determined to be compliant, it shall be issued a color-coded non-magnetic decal displaying the current year of inspection. Both the owner and the police department shall be notified of the color for the current year's decal at the beginning

of the annual inspection period. A vehicle not displaying the current year's color-coded decal shall not be driven nor caused or permitted to be driven, until it has received the appropriate decal. Driving a vehicle, or causing or permitting a vehicle to be driven, before it receives the current year's color-coded city-issued decal shall constitute a violation~~class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.~~ Thirty days before the end of the annual inspection period, the police department and all owners shall be notified in writing that inspections will end on the specified date.

- (c) The taxicab inspector shall remove the city-issued decal and meter lock of any vehicle that fails an annual or interim inspection, either state or city, and cannot be repaired on the company's lot. Once the necessary repairs have been made, and a \$15.00 administrative fee has been paid, the taxicab inspector shall replace the meter lock and decal. Only the taxicab inspector or his or her designee shall be authorized to do so. Replacing a meter lock, without the taxicab inspector's permission, shall constitute a violation~~class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.~~ All repairs shall be made within two weeks of the date of inspection.

#### **Sec. 78-143. Repair of unsafe vehicles.**

Any vehicle determined by the taxicab inspector or owner, at any time, to be unsafe, shall be taken out of service until such time as all the necessary repairs or alterations have been made, and no owner shall operate, or cause or permit to be operated, any such vehicle, until all such repairs and alterations have been completed.~~A violation of this section shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.~~

#### **Sec. 78-171. Vehicle registration and licensing.**

It shall be unlawful for any person to operate a motor vehicle as a taxicab or limousine until such vehicle has been registered in accordance with all the requirements of the state (G.S. 20-50 et seq.), and all proper licenses have been obtained therefor. No owner or sub-owner shall operate any personal vehicle with a taxicab or limousine tag affixed unless the vehicle complies with all requirements of this chapter.~~Any violation of this section shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.~~

#### **Sec. 78-173. Parking in fire limits.**

It shall be unlawful for any person to park any vehicle for hire, for any length of time, upon any of the streets of the city, within the fire limits, as now established or hereafter established, except when loading or unloading; provided that nothing contained in this section shall prevent any such vehicle from occupying any taxicab or limousine parking zone lawfully assigned to such vehicle, or from parking as may be necessary pending temporary repairs or removal of the vehicle from the streets.~~Any violation of this section shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.~~

#### **Sec. 78-175. Hiring with intent not to pay.**

Any person who engages, uses, employs, or hires any vehicle for hire, and who fails or refuses to pay for the vehicle for hire, with intent to cheat and defraud the owner, sub-owner, or driver, shall be in violation~~guilty of a class 3 misdemeanor and shall be subject to a fine of up to \$500.00.~~

**Sec. 78-176. Minors to wear seat belt; exception.**

All passengers under 16 years of age shall be secured by a seat belt whenever the vehicle for hire is in motion. This section shall not apply to horse-drawn vehicles. ~~Any violation of this section shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.~~

**Sec. 78-177. Driver's permit required.**

No person shall drive a taxicab within the city without first having obtained a taxicab driver's permit from the taxicab inspector, as authorized by G.S. 160A-304, which is herein incorporated by reference. The taxicab driver's permit shall not be transferable from person to person. However, if a driver leaves one owner's employ and wishes to begin working for another, the driver may request to substitute the name of his or her new employer on the permit, pursuant to subsection 78-182(d), below, which permit shall be valid only until expiration of the one-year term, at which point the driver must apply for a renewal. ~~Any violation of this section shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.~~

**Sec. 78-178. Initial application for a driver's permit; renewal of a driver's permit.**

- (a) Each applicant for an initial taxicab driver's permit or renewal thereof shall file an application with the taxicab inspector, on forms provided by the taxicab inspector. The application shall contain the following information:
- (1) The applicant's full name and address;
  - (2) A copy of the applicant's North Carolina driver's license;
  - (3) Any physical ailments which would prevent a driver from safely operating a vehicle for hire. This shall include, but is not limited to, vision and hearing problems, conditions which could cause a driver to experience a seizure or black-out while driving, any condition which could cause a driver to fall asleep at the wheel, substance abuse, or other physical impairment which, if left untreated, prevents the safe operation of a vehicle for hire. In order to qualify for a driver's permit, the applicant must provide a statement from a licensed physician indicating that the applicant is being treated for any such condition and can safely operate a vehicle;
  - (4) The applicant's birthdate and physical description, such as is required on a state driver's license, including height, eye, and hair color; and
  - (5) A state-wide criminal background check, as per the requirement in 78-179;
  - (6) A sworn statement averring that the information submitted in the application is neither false nor misleading. Submission of any false or misleading information shall be grounds for denial of the driver's permit.
- (b) The taxicab inspector shall interview each applicant for an initial driver's permit, and may contact the applicant's previous employers. If the applicant provides a satisfactory state-wide background check, and satisfies all other requirements for a driver's permit, in this article, including those listed in section 78-180, below, the taxicab inspector shall issue the applicant a one-year driver's permit, pursuant to section 78-181, below, beginning on the

date when the taxicab inspector is able to verify that the applicant has met all requirements for the issuance of a driver's permit.

- (c) A driver wishing to renew his or her driver's permit must notify the taxicab inspector at least 30 days prior to the expiration of the permit. ~~A driver operating a vehicle for hire within the city while his or her permit is expired shall be guilty of a class 3 misdemeanor and shall be subject to a fine of up to \$500.00.~~

**Sec. 78-182. Issuance and display of a driver's permit.**

- (a) If an applicant meets all of the requirements of this article, the taxicab inspector shall issue to the applicant, a driver's permit, valid for one year, which shall contain the following information:
  - (1) The applicant's photograph and name;
  - (2) The expiration date of the permit;
  - (3) The name of the company and the certificate holder which employ the driver; and
  - (4) The name and phone number of the taxicab inspector for passengers to call who wish to lodge a complaint.
- (b) A copy of the driver's permit must be prominently displayed, at all times, as required by section 78-182.
- (c) A driver may only drive vehicles for the company and certificate holder whose names appear on the driver's permit. Once the driver ceases to drive for that company and certificate holder, the driver shall surrender his or her permit to the taxicab inspector, within 48 hours.
- (d) If the driver wishes to drive for another company and certificate holder, he or she must obtain the written permission of both the taxicab inspector and the new certificate holder. The driver will submit to the taxicab inspector a written request to substitute the new holder's and company's names on the existing permit, and written authorization from the new holder to do so, within five business days of the surrender of the permit. The taxicab inspector shall contact the new holder to request written confirmation of the authorization. If the taxicab inspector decides to grant the driver's request, the permit shall be good for the remaining unexpired portion of the one-year term. If the taxicab inspector denies the driver's request, or the driver does not submit a request to substitute a new holder's or company's name on his or her permit, within five business days of its surrender, the permit shall automatically expire on the sixth business day.
- (e) As in subsection 78-178(c), no person shall drive a vehicle for hire within the city, while his or her driver's permit is expired.
- ~~(f) Any violation of this section shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.~~

**Sec. 78-188. Limitation on hours of driving.**

It shall be unlawful for a taxicab driver to continue on duty for more than 12 hours, consecutive or not, in any 24-hour period. ~~Any violation of this section shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.~~

**Sec. 78-209. Reserved.Violation of article.**

~~Any violation of this article shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.~~

**Sec. 78-235. Reserved.Violation of article.**

~~Any violation of this article shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.~~

**Sec. 78-318. Violation of article.Penalty.**

~~It shall be unlawful for any person to violate any provisions of this article. With the exception of section 78-316, a violation of this article or any part thereof shall constitute a class 3 misdemeanor and shall subject the offender to a fine of not more than \$500.00. A violation of section 78-316 shall subject the offender to a civil penalty as provided for in section 78-2.~~

**Sec. 78-320. Reserved.Enforcement.**

~~It shall be the policy of the police department to issue a written warning, North Carolina State Uniform Citation, or a Winston-Salem Ordinance Citation against any person the officer has probable cause to believe has violated this article, whether the offending person is a juvenile or any other person.~~

**Section 2.** This ordinance shall become effective upon adoption.