

TOWN OF WAGRAM
CHARTER AND CODE OF ORDINANCES

Revised
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Milton Farmer, Mayor

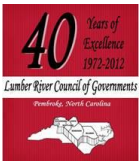
Bernice Gorham, Commissioner

Robert McLaughlin, Commissioner

Hyder Massey, Commissioner

Paschal Stewart, Commissioner

Kendrick Thomas, Commissioner



Prepared by Lumber River Council of Governments

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CHARTER

GENERAL ASSEMBLY OF NORTH CAROLINA SESSION _____

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF WAGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Wagram is revised and consolidated to read as follows:

THE CHARTER OF THE TOWN OF WAGRAM.

ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

Section 1.1. **Incorporation.** The Town of Wagram, North Carolina, in Scotland County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the 'Town of Wagram,' hereinafter at times referred to as the 'Town.'

Section 1.2. **Corporate Powers.** The Town shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Town of Wagram specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

Section 1.3. **Corporate Limits.** The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current municipal boundaries, shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made, and copies shall be filed in the office of the Secretary of State, the Bladen County Register of Deeds, and the appropriate board of elections.

ARTICLE II. GOVERNING BODY.

Section 2.1. **Town Governing Body; Composition.** The Board of Commissioners, hereinafter referred to as the 'Board,' and the Mayor shall be the governing body of the Town.

Section 2.2. **Town Board of Commissioners; Composition; Terms of Office.** The Board shall be composed of **five** members, to be elected by all the qualified voters of the Town. The **two** candidates for commissioner receiving the highest number of votes shall be elected for a term of four years and **the** candidate receiving the next highest number of votes shall be elected for a term of two years. The Mayor and Commissioners shall serve until their

successors are elected and qualified.

Section 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by all the qualified voters of the Town for a term of **two** years or until his or her successor is elected and qualified. The Mayor shall be the official head of the Town government and preside at meetings of the Board, shall have the right to vote only when there is an equal division on any question or matter before the Board, and shall exercise the powers and duties conferred by law or as directed by the Board.

Section 2.4. **Mayor Pro Tempore.** The Board shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Board.

Section 2.5. **Meetings.** In accordance with general law, the Board shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

Section 2.6. **Quorum; Voting.** Official actions of the Board and all votes shall be taken in accordance with the applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

Section 2.7. **Compensation; Qualifications for Office; Vacancies.** The compensation and qualifications of the Mayor and Commissioners shall be in accordance with general law. Vacancies that occur in any elective office of the Town shall be filled by majority vote of the remaining members of the Board and shall be filled for the remainder of the unexpired term, despite the contrary provisions of G.S. 160A-63.

ARTICLE III. ELECTIONS.

Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

Section 3.2. **Election of Mayor.** A Mayor shall be elected in the regular municipal election in 2017? and each two? years thereafter.

Section 3.3. **Election of Commissioners.** In the regular municipal election in 2017? and quadrennially? thereafter, two? Commissioners shall be elected for **four-year terms** in those positions whose terms are then expiring. In the regular municipal election in ????? and quadrennially? thereafter, one? Commissioner shall be elected for **four-year terms** in those positions whose terms are then expiring.

NOTE: This is all that the current Charter states on elections: "The two candidates for commissioner receiving the highest number of votes shall be elected for a term of four years and the candidate receiving the next highest number of votes shall be elected for a term of two years."

Section 3.4. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

Section 4.1. **Form of Government.** The Town shall operate under the mayor-council form of government, in accordance with Part 3 of Article 7 of Chapter 160A of the General Statutes.

Section 4.2. **Town Attorney.** The Board shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Board may direct.

Section 4.3. **Town Clerk.** The Board shall appoint a Town Clerk to keep a journal of the proceedings of the Board, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Board may direct.

Section 4.4. **Tax Collector.** The Town shall have a Tax Collector to collect all taxes owed to the Town and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the Board.

Section 4.5. **Other Administrative Officers and Employees.** The Board may authorize other positions to be filled by appointment and may organize the Town government as deemed appropriate, subject to the requirements of general law.

SECTION 2. The purpose of this act is to revise the Charter of the Town of Wagram and to consolidate certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts that are expressly consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

SECTION 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools, or any acts validating official actions, proceedings, contracts, or obligations of any kind.

SECTION 4. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

The Charter of the Town Of Wagram, Scotland County, North Carolina, Chapter 161, Section 5, Of the Private Laws of North Carolina, Session 1911.

Chapter 110 of the Session Laws Of 1915

Chapter 213 of the Public, Local And Private Session Laws Of 1937

Chapter 848 of the Session Laws Of 1949

Chapter 1223 of the Session Laws Of 1949 Chapter 380

Chapter 172 of the Session Laws Of 1971

Chapter 1038 of the Session Laws Of 1973 (2nd Session 1974)

Chapter 404 of the Session Laws Of 1981

SECTION 5. The Mayor and Commissioners serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified. Thereafter those offices shall be filled as provided in Articles II and III of the Charter contained in Section 1 of this act.

SECTION 6. This act does not affect any rights or interests that arose under any provisions repealed by this act.

SECTION 7. All existing ordinances, resolutions, and other provisions of the Town of Wagram not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

SECTION 8. No action or proceeding pending on the effective date of this act by or against the Town or any of its departments or agencies shall be abated or otherwise affected by this act.

SECTION 9. If any provision of this act or application thereof is held invalid, such invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 10. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended General Statute or to the General Statute that most clearly corresponds to the statutory provision which is superseded or recodified.

SECTION 11. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the _____ day of _____, 2017.

President of the Senate

Speaker of the House of Representatives

CODE OF ORDINANCES

CHAPTER 1 – USE OF THE CODE

ARTICLE I. - GENERAL

SECTION 1-1. - HOW CODE DESIGNATED AND CITED.

The provisions in the following chapters and sections shall constitute and be designated as the "Code of Ordinances, Town of Wagram, North Carolina," and may be so cited.

SECTION 1-2. - DEFINITIONS AND RULES OF CONSTRUCTION.

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

Bond. When a bond is required, an undertaking in writing shall be sufficient.

Charter means the Charter of the Town of Wagram, North Carolina as printed in Part I of this volume.

Clerk means the Town Clerk/Finance Director of the Town of Wagram, North Carolina.

Code. The words "this Code" mean the Code of Ordinances, Town of Wagram, North Carolina.

Computation of time. In computing any period of time prescribed or allowed by this Code or by order of court, the day of the act, event, default or publication after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. A half-holiday shall be considered as other days and not as a holiday. Eastern Standard Time shall be the official time except during that period when what is commonly known as "daylight saving time" is in effect through adoption by the Town Board of Commissioners or otherwise.

State Law Reference— Computation of time, G.S. § 1-593.

Commission. The words "the Commission" or "Town Board of Commissioners" mean the governing body of the Town.

County. The words "the county" or "this county" means the County of Scotland, State of North Carolina.

Delegation of authority. Whenever a provision of this Code requires or authorizes an officer or employee of the Town to do some act or perform some duty, it shall be construed to authorize the officer or employee to

designate, delegate and authorize subordinates to perform the act or duty unless the terms of the provision designate otherwise.

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

Health officer means the health officer or health director of Scotland County, North Carolina.

Month means a calendar month.

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Oath includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases, the words "affirm" and "affirmed" shall be equivalent to the words "swear" and "sworn."

Officials, boards, commissions, etc. Whenever reference is made to officials, boards, commissions, committees and the like, by title only, they shall be construed as if followed by the words "of the Town of Wagram, North Carolina."

Or, and. "Or" may be read "and," and "and" may be read "or" if the sense requires it.

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

Person includes a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.

Personal property includes every species of property, except real property.

Plural, singular. Words importing the singular include the plural, and words importing the plural include the singular.

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

Property includes real and personal property.

Real property includes lands, tenements and hereditaments.

Residence means the place adopted by a person as his place of habitation and to which, whenever he is absent, he has the intention of returning. When a person eats at one (1) place and sleeps at another, the place where such person sleeps shall be deemed his residence.

Schedule of fees and charges means the official list maintained in the office of the collector of revenue, compiled in accordance with the provisions of G.S. Section 160A-77, which establishes rates for utility or other public enterprises in addition to fees of any nature as determined from time to time by the Town Board of Commissioners.

Sidewalk means any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians.

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

State. The words "the state" or "this state" mean the State of North Carolina.

Statutes references. Whenever reference is made, for example, to G.S. section 160A-174, it shall be construed to refer to General Statutes of North Carolina, section 160A-174, as amended, or to whatever section is cited.

Street means and includes any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, path, viaduct, bridge or other public place and the approaches thereto within the Town when any part thereof is open to the use of the public and established for purposes of vehicular traffic.

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

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

Town. The words "the Town" or "this Town" mean the Town of Wagram in the County of Scotland and the State of North Carolina.

Town limits. The words "Town limits" or "corporate limits" mean the legal boundary of the Town of Wagram, North Carolina.

Writing or written includes printing and any other mode of representing words and letters.

Year means a calendar year.

State Law Reference— *Rules for construction of statutes, G.S. § 12-3.*

SECTION 1-3. - AMENDMENTS TO CODE—FORM.

- (a) All ordinances passed subsequent to the adoption of this Code which amends, repeals or in any way affects this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. In the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. The subsequent ordinances as

numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code by the Town Board of Commissioners.

- (b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section or subsection number of this Code in the following language: "That section (or subsection) _____ of the Code of Ordinances, Town of Wagram, North Carolina, is hereby amended to read as follows:" The new provisions shall then be set out in full as desired.
- (c) If a new section or subsection not heretofore existing in the Code is to be added, the following language may be used: "That the Code of Ordinances, Town of Wagram, North Carolina, is hereby amended by adding a section (or subsection), to be numbered _____, which said section (or subsection) shall read as follows:" The new section shall then be set out in full as desired.
- (d) Repeal of any of the provisions of this Code may be affected by repealing such provisions by specific reference to the section or subsection number of this Code in the following language: "That section (or subsection) _____ of the Code of Ordinances, Town of Wagram, North Carolina, is hereby repealed in its entirety."

SECTION 1-4. - SAME—PLACEMENT.

Every ordinance introduced which proposes to amend or repeal any portion of this Code shall show, by proper reference, the chapter, article and section proposed to be amended; or if it proposes to add to this Code a new chapter, article or section, it shall indicate, with reference to the arrangement of this Code, the proper number of such chapter, article or section.

SECTION 1-5. - SAME—LIMITATIONS.

Not more than one (1) chapter, article or section of this Code shall be amended, repealed or ordained by any one (1) ordinance unless such chapters, articles or sections are consecutive.

SECTION 1-6. - WHEN ORDINANCES EFFECTIVE.

Every ordinance enacted by the Town Board of Commissioners shall be in force and effect as soon as passed, published or posted, unless otherwise ordered.

SECTION 1-7. - RECORDING OF ORDINANCES.

Every ordinance passed by the Town Board of Commissioners shall be immediately recorded in a book provided for this purpose by the Commission, which book shall be known as the "Original Code of the Town of Wagram," under the proper chapter and article or shall be recorded in its entirety in the minutes, according to context, and shall be placed and assigned the proper section number.

SECTION 1-8. - SUPPLEMENTATION OF CODE.

- (a) By contract or by Town personnel, supplements to this Code shall be prepared on a regular basis. A supplement to the Code shall include all substantive, permanent and general parts of ordinances passed by the Town Board of Commissioners during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:
 - (1) Organize the ordinance material into appropriate subdivisions;
 - (2) Provide appropriate catch lines, headings and titles for sections and other subdivisions of the Code printed in the supplement and make changes in such catch lines, headings and titles;
 - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
 - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
 - (5) Make other non-substantive changes necessary to preserve the original meanings of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

SECTION 1-9. - CATCHLINES OF SECTIONS.

- (a) The catch lines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections nor as any part of the section nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catch lines, are amended or reenacted.
- (b) The history notes appearing in parentheses after each section and the references and editor's notes scattered throughout the Code are for the benefit of the user of the Code and shall have no legal effect.

SECTION 1-10. - ALTERING CODE.

It shall be unlawful for any person to change or amend, by additions or deletions, any part or portion of this Code or to insert or delete pages or any portions thereof or to alter or tamper with such Code in any manner whatsoever, except pursuant to ordinance or resolution or other official act of the Town Board of Commissioners, which will cause the law of the Town to be misrepresented thereby.

SECTION 1-11. - LIABILITY OF CORPORATE OFFICERS, AGENTS AND EMPLOYEES FOR VIOLATION OF CODE.

For a violation of any provision of this Code or other ordinance of the Town by a corporation, the officer, agent or employee thereof who performs the act constituting the violation or procures, aids or abets the performance of such act shall be subject to the same penalties as if he himself had committed such violation.

SECTION 1-12. - PENALTIES AND REMEDIES FOR CODE VIOLATIONS.

- (a) The penalties and remedies set forth herein shall apply to violations of the provisions of the Town Code unless and to the extent other provisions provide different penalties or remedies for specific violations.
- (b) Except as otherwise provided in Chapter 10 a violation of any Town ordinance regulating the operation of a vehicle shall constitute an infraction, punishable as provided in G.S. §§ 14-3.1 and 14-4
- (c) Except as otherwise provided in this Code, a violation of any of the provisions of this Code shall constitute a Class 3 misdemeanor, punishable by a fine of not more than five hundred dollars (\$500.00).
- (d) Except as otherwise provided in this Code, a violation of the provisions of this Code shall also subject the offender to a civil penalty of fifty dollars (\$50.00). If a person fails to pay this penalty within ten (10) days after being cited for a violation, the Town may seek to recover the penalty by filing a civil action in the nature of debt.
- (e) The Town may seek to enforce the provisions of this Code through any appropriate equitable action.
- (f) Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.
- (g) The Town may seek to enforce the provisions of this Code by using any one (1) or a combination of the foregoing remedies.

State Law Reference— Violation of Town or Town ordinances declared a misdemeanor punishable by fine not exceeding \$50.00 or imprisonment not exceeding 30 days, G.S. § 14-4.

SECTION 1-13. - ORDINANCES NOT AFFECTED BY CODE.

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

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code;
 - (2) Any ordinance or resolution promising or guaranteeing the payment of money for the Town or authorizing the issuance of any bonds of the Town or any evidence of the Town's indebtedness;
 - (3) Any contract or obligation assumed by the Town;
 - (4) Any ordinance fixing the salary of any Town officer or employee;
 - (5) Any right or franchise granted by the Town;
 - (6) Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening, paving, etc., any street or public way in the Town;
 - (7) Any appropriation ordinance;
 - (8) Any ordinance which, by its own terms, is effective for a stated or limited term;
 - (9) Any ordinance providing for local improvements and assessing taxes therefore;
 - (10) Any zoning ordinance;
 - (11) Any ordinance dedicating or accepting any subdivision plat;
 - (12) Any ordinance describing or altering the boundaries of the Town;
 - (13) The administrative ordinances or resolutions of the Town not in conflict or inconsistent with the provisions of this Code;
 - (14) Any ordinance levying or imposing taxes not included in this Code;
 - (15) Any ordinance establishing or prescribing street grades in the Town;
- nor shall such ordinance be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this chapter; and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

SECTION 1-14. - EFFECT OF REPEAL OR EXPIRATION OF ORDINANCES.

- (a) The repeal of an ordinance or its expiration by virtue of any provision contained therein shall not affect any right accrued, any offense committed, any penalty or punishment incurred or any proceeding commenced before the repeal took effect or the ordinance expired.
- (b) When an ordinance which repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

State Law Reference— Effect of repeal, G.S. § 12-2.

SECTION 1-15. - PROVISIONS CONSIDERED AS CONTINUATIONS OF EXISTING ORDINANCES.

The provisions appearing in this Code, so far as they are the same as ordinances adopted prior to this Code and included in such Code, shall be considered as continuations thereof and not as new enactments.

SECTION 1-16. - SEVERABILITY OF PARTS OF CODE.

It is hereby declared to be the intention of the Town Board of Commissioners that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or

section of this Code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the Commission without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTIONS 1-17. – 1-25. - RESERVED.

CHAPTER 2. – ADMINISTRATION

ARTICLE 1. - GENERAL

SECTION 2-1. - CORPORATE SEAL.

- (a) There is hereby adopted as the official corporate seal of the Town a seal consisting of the embossed impression of a circular disk containing in the outer rim the words "The Town of Wagram, Scotland County N. C. Incorporated 1911".
- (b) The official corporate seal shall be placed in the custody of the Clerk.

SECTION 2-2 – OATH OF OFFICE

The Mayor, each member of the Town Board of Commissioners and each member of every Town-appointed board or commission shall take the oath prescribed by the state constitution and the Charter.

State Law Reference— N.C. Constitution, Article. 6, Section 7.

SECTION 2-3. - BOND OF OFFICERS, EMPLOYEES.

It shall be the duty of each officer or employee of the Town, when so required by the Town Board of Commissioners before entering upon the discharge of his duties, to enter into a bond with sureties in such sum as the Commission shall require, such bond to be payable to the Town and conditioned upon the faithful performance of such officer's or employee's duties; provided, however, the Town shall pay all premiums which become due upon such bond.

SECTION 2-4. - ADDITIONAL DUTIES OF OFFICERS, EMPLOYEES.

The Town Board of Commissioners shall have the power to require, from time to time, further and other duties of all officers and employees of the Town beyond those prescribed therefore and to define and prescribe powers and duties of all officers elected or appointed to any office provided for by the Charter.

SECTION 2-5. - CONFLICT OF INTEREST.

It shall be unlawful for any officer or employee of the Town, directly or indirectly, to become a contractor for work done for the Town or to become directly and personally interested in or receive profits from any purchase of supplies for any department of the Town. In addition to any other penalty which may be imposed for the violation of this section, any such person so offending shall be removed from office.

State Law Reference— Conflicts of interest, G.S. § 160A-415.

SECTION 2-6. - SIGNATURES ON CHECKS, VOUCHERS.

All checks and vouchers on the Town shall be cosigned by the Clerk and the Mayor. A Commission member is designated as an alternate for the Mayor as necessary.

State Law Reference— Local Government Budget and Fiscal Control Act, G.S. § 159-7 et seq.

SECTIONS 2-7—2-25. - RESERVED.

ARTICLE 2. – TOWN BOARD OF COMMISSIONERS

SECTION 2-26. – MEETINGS – ORGANIZATIONAL.

The newly elected and the outgoing Mayor and Town Board of Commissioners shall hold a meeting for organizational purposes at the first regular meeting following their election and certification.

Charter Reference— Section 3.

(1949 Ordinance, Chapter A)

SECTION 2-27. – MEETINGS – REGULAR.

A regular meeting of the Town Board of Commissioners shall be held at 7:00 p.m. at the Town Hall on the first Thursday in each month; provided, however, that the Town Board of Commissioners, by action taken prior to any regular meeting, may change the hour of the meeting and the date of the meeting to some other day in the same month.

Charter Reference— *Meetings of Town Board of Commissioners, § 2.5.* **State Law Reference—** *Authority to fix time and place of meetings, G.S. § 160A-71.*

SECTION 2-28. – MEETINGS – OPEN TO PUBLIC.

All meetings of the Town Board of Commissioners, whether regular, special or adjourned, shall be open to the public.

State Law Reference— *Official meetings of public bodies to be open to public, G.S. § 143-318.10.; executive sessions, G.S. § 143-318.11.*

SECTION 2-29. – MEETINGS – MAYOR TO PRESIDE

The Mayor shall preside over all meetings of the Town Board of Commissioners, and in his absence the Mayor Pro Tem shall preside.

State Law Reference— *Mayor to preside at meetings, G.S. § 160A-69.*

SECTION 2-30. – MEETINGS - MINUTES

A complete and accurate account of all the proceedings of the Town Board of Commissioners shall be kept, and all ordinances shall be filed in a book especially provided for that purpose by the Commission. Every resolution adopted or made by the Commission and every petition submitted to it which is not set out in full in the minutes shall be filed in an exhibit book and, by proper reference, shall be made a part of the minutes. The minutes of each meeting shall be read at the subsequent meeting and, upon being approved by the Commission, shall be signed by the Mayor and the Clerk.

State Law Reference— *Keeping of minutes of meetings, G.S. § 160A-72.*

SECTION 2-31. – RULES OF PROCEDURE

Except where otherwise provided by this Code, law or ordinance, the procedure of the Town Board of Commissioners shall be governed by Robert's Rules of Order.

SECTION 2-32. – RESIGNATION OF COMMISSION MEMBER

Resignation of any member of the Town Board of Commissioners shall be tendered in writing and such resignation shall lie on the table until the next regular meeting of the Commission.

SECTION 2-33. – FILLING OF VACANCIES

The Commission shall fill all vacancies caused by death, resignation or failure to act or otherwise in the Town Board of Commissioners or offices filled by the appointment of the Commission.

State Law Reference— Vacancies in elective office, G.S. § 160A-63.

SECTION 2-34. – 2-50. – RESERVED

ARTICLE 3. – CODE OF ETHICS

SECTION 2-51. – PURPOSE

The purpose of this Code of Ethics is to establish guidelines for an ethical standard of conduct for the Wagram Town Board of Commissioners (the “Commission”) and to help determine what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for a Commission member's best judgment.

State Law Reference – G.S. § 160A – 86-87. Ethics Code and Education Program.

SECTION 2-52. – GENERAL PRINCIPLES UNDERLYING THE CODE OF ETHICS

- a) The stability and proper operation of democratic representative government depend upon public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people upon their elected officials.
- b) Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.
- c) Commission members must be able to act in a manner that maintains their integrity and independence, yet is responsive to the interests and needs of those they represent.
- d) Commission members must always remain aware that at various times they play different roles:
 - a. As advocates, who strive to advance the legitimate needs of their citizens;
 - b. As legislators, who balance the public interest and private rights in considering and enacting decisions, ordinances, and resolutions; and
 - c. As decision-makers, who arrive at fair and impartial quasi-judicial and administrative determinations.

- e) Commission members must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly.
- f) Commission members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of their constituents. Each official must find within his or her own conscience the touchstone by which to determine what conduct is appropriate.

SECTION 2-53. – OBEY THE LAW

Commission members should obey all laws applicable to their official actions as members of the Commission. Commission members should be guided by the spirit as well as the letter of the law in whatever they do.

SECTION 2-54. – ACT WITH CIVILITY

Commission members should feel free to assert policy positions and opinions without fear of reprisal from fellow Commission members or citizens. To declare that a Commission member is behaving unethically because one disagrees with that Commission member on a question of policy (and not because of the Commission member's behavior) is unfair, dishonest, irresponsible, and itself unethical.

SECTION 2-55. – MAINTAIN INTEGRITY AND INDEPENDENCE

Commission members should act with integrity and independence from improper influence as they exercise the duties of their office. Characteristics and behaviors consistent with this standard include the following:

- a) Adhering firmly to a code of sound values;
- b) Behaving consistently and with respect toward everyone with whom they interact;
- c) Exhibiting trustworthiness;
- d) Living as if they are on duty as elected officials regardless of where they are or what they [are] doing;
- e) Using their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, consistent manner;
- f) Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others;
- g) In a quasi-judicial matter, disclosing contacts and information about issues that they receive outside of public meetings to the extent required by law;
- h) In a quasi-judicial matter, refraining from seeking or receiving information about the matter outside of the quasi-judicial proceeding itself to the extent required by law;
- i) Treating other Commission members and the public with respect and honoring the opinions of others even when the Commission members disagree with those opinions;
- j) Not reaching conclusions on issues until all sides have been heard;
- k) Showing respect for their office and not behaving in ways that reflect badly on those in office;
- l) Recognizing that they are part of a larger group and acting accordingly; and

- m) Recognizing that individual Commission members are not generally allowed to act on behalf of the Commission but may only do so if the Commission specifically authorizes it, and that the Commission must take official action as a body.

SECTION 2-56. – AVOID IMPROPER ACTS

- a) Commission members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach. Although opinions may vary about what behavior is inappropriate, this Commission will consider impropriety in terms of whether a reasonable person who is aware of all of the relevant facts and circumstances surrounding the Commission member's action would conclude that the action was inappropriate.
- b) If a Commission member believes that his or her actions, while legal and ethical, may be misunderstood, the member should seek the advice of the Town's Attorney and should consider publicly disclosing the facts of the situation and the steps taken to resolve it (such as consulting with the attorney).

SECTION 2-57. – FAITHFULLY PERFORM THE DUTIES OF OFFICE

Commission members should faithfully perform the duties of their office. They should act as especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned. Commission members should faithfully attend and prepare for meetings. They should carefully analyze all credible information properly submitted to them, and in quasi-judicial matters they should be mindful of the need not to engage in communications outside of meetings. They should demand full accountability from those over whom the Commission has authority. Commission members should be willing to bear their fair share of the Commission's workload. To the extent appropriate, they should be willing to put the Commission's interests ahead of their own.

SECTION 2-58. – CONDUCT THE BUSINESS OF GOVERNMENT IN AN OPEN AND PUBLIC MANNER

Commission members should conduct the affairs of the Commission in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should remember when they meet that they are conducting the public's business. They should also remember that local government records belong to the public and not to Commission members or their employees. In order to ensure strict compliance with the laws concerning openness, Commission members should make clear that an environment of transparency and candor is to be maintained at all times in the governmental unit. They should prohibit unjustified delay in fulfilling public records requests. They should take deliberate steps to make certain that any closed sessions held by the Commission are lawfully conducted and that such sessions do not stray from the purposes for which they are called.

SECTIONS 2-59. - 2-60. – RESERVED

ARTICLE 4. – OFFICERS AND EMPLOYEES

SECTION 2-61. – DUTIES OF THE MAYOR

It shall be the duty of the Mayor to:

- (a) Preside over all meetings of the Town Board of Commissioners;
- (b) Keep informed as to the Town's business;
- (c) The Mayor may appoint such committees from the members of the Town Board of Commissioners and assign to them such duties as he deems necessary for the proper and efficient operation of the Town government.

(1949 Ordinance, Chapter A)

SECTION 2-62. – DUTIES OF THE TOWN ADMINISTRATOR

The Mayor together with the Town Board of Commissioners may appoint a Town Administrator to conduct activities as assigned by the Mayor and Commission for the management of the Town. Before entering upon the duties of his office, the Town Administrator shall take and subscribe an oath that he will faithfully perform the duties which are assigned by the Mayor and Town Board of Commissioners.

State Law Reference— G.S. § 160A-165.

SECTION 2-63. – DUTIES OF THE TOWN ATTORNEY

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

State Law Reference— G.S. § 160A-173.

SECTION 2-64. – DUTIES OF THE TOWN CLERK

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

State Law Reference— G.S. § 160A-171.

SECTION 2-65. – DUTIES OF THE TOWN FINANCE OFFICER

The Town Board of Commissioners shall appoint a Town Finance Officer to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

State Law Reference— G.S. § 159-24.

SECTION 2-66. – DUTIES OF THE TOWN TAX COLLECTOR

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

SECTION 2-67. – CONSOLIDATION OF FUNCTIONS

The Town Board of Commissioners may provide for the consolidation of any two (2) or more positions of Town Clerk, Town Tax Collector and Town Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

State Law Reference— Authority to consolidate, etc., offices, G.S. § 160A-146.

SECTION 2-68. – OTHER ADMINISTRATIVE OFFICERS AND EMPLOYEES.

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

SECTION 2-69. – 2-70. – RESERVED.

ARTICLE 5. – TOWN FISCAL POLICIES

SECTION 2-71. TOWN DEPOSITORY.

- (a) Town depositories shall be designated as such by ordinance. When at any time there is more than one town depository, the Town Board of Commissioners shall, by ordinance, specify which of the several town funds shall be maintained on deposit in each town depository, and no single fund shall be divided for deposit in more than one depository except for compelling reasons stated in the ordinance.
- (b) The Town Board of Commissioners, for the best interests of the town, shall from time to time, but not less frequently than biennially, review the situation as to town depositories, and may make such changes as prudence may dictate.

State Law reference: Selection of depositories, see G.S. § 159-31

SECTION 2-72. - SIGNATURES ON CHECKS; EXCEPTIONS.

Checks drawn on town funds shall require two signatures. Signatures shall include either the Mayor or the Town Manager together with the signature of Town Treasurer/Finance Officer.

State Law reference: Signing checks, see G.S. § 159-25(b)

SECTION 2-73. – DISBURSEMENT OF FUNDS.

The finance officer is authorized to disburse funds subject to the provisions of the Local Government Budget and Fiscal Control Act, G.S. 159-7 et seq.

SECTION 2-74. – PURCHASING PROCEDURES- GENERAL.

Funds must be properly appropriated or budgeted to meet the expenses, including contractual obligations of the Town.

- (a) In accordance with G.S. 159-7 et seq., no bill or claim against the town may be paid unless it has been approved by the officer or employee responsible for the function or agency to which the expense is charged. No check or draft of the town shall be valid unless it bears on its face the certificate of the finance director as follows:

"This disbursement has been approved as required by the Local Government Budget and Fiscal Control Act."

- (b) The finance officer must determine whether a sufficient balance remains in the budget "to pay the sums obligated by the transaction". G.S. 159-28(a) requires a preaudit certificate signed by the finance officer to appear on the contract, agreement or purchase order before it becomes an obligation of the governmental unit. In accordance with G.S. 159-28(a) No contract, agreement, or purchase order shall be valid unless it bears the finance director's certificate as follows:

"This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act."

SECTION 2-75. – CLEARANCE WITH BUDGET, BUDGET AMENDMENT OR TRANSFER.

No money shall be disbursed from the town unless the item for which the disbursement is to be made has been provided for in the annual budget or a budget amendment, or can be provided for by a proper transfer within the budget as the Town Board of Commissioners may authorize except in the case of an extreme emergency.

SECTION 2-76. – PURCHASING POLICY AND SYSTEM

This section shall represent the purchasing policy and system for the Town of Wagram.

- (a) Before any order is given for items to be purchased for the town by any town officer or employee, a purchase must be preaudited by the town.
- (b) Any town employee purchasing any goods at a price of more than \$500.00 shall make that purchase using a properly executed form as approved by the Town Board of Commissioners, and the form shall only be issued upon compliance with the following conditions:
- i. A purchase request, on a form approved by the Town Board of Commissioners, shall originate with the head of the department making a purchase request;

- ii. The purchase request shall then be delivered to the purchasing agent who shall obtain at least three price quotes for requested goods only if greater than \$1,000.00;
 - iii. The purchase request shall then be delivered to the finance director for accounting purposes.
- (c) Any town employee purchasing any goods at a price of less than \$500.00 shall first obtain from the purchasing agent a purchase request form, as approved by the Town Board of Commissioners, and then deliver the purchase request to the finance director or assistant finance director for final approval.
- (d) Any purchase \$5,000.00 or greater shall require approval from the Town Board of Commissioners.

State Law reference— Regulation of contracts, G.S. § 160A-16 et seq.

(Ord. 119)

SECTION 2-77. – DEPOSITS OF MONEY RECEIVED FOR TOWN.

The town finance officer shall deposit to the credit of the town, in such banks as may be designated by the Town Board of Commissioners as depositories, all money received by him and belonging to the town, on the same day he shall receive such money or on the following day, unless the following day is a Sunday or legal holiday, in which event he shall deposit such money the first day thereafter which is not a Sunday or a legal holiday.

SECTION 2-78. – CAPITAL RESERVE FUND.

Pursuant to the Municipal Capital Reserve Act as set forth in G.S. §§ 159-18 et seq., a Capital Reserve Fund is hereby authorized and declared to be established for the town.

The Capital Reserve Fund shall consist of money derived from unappropriated surplus revenues and unencumbered balances, if available at fiscal year-end, from the regular working accounts of the town.

SECTIONS 2-79. – DISPOSING OF PERSONAL PROPERTY LESS THAN \$500.

- (a) The Town Board of Commissioners is authorized, pursuant to G.S. 160A-266(c), to dispose of any surplus property owned by the town, whenever he determines, in his discretion, that:
 - i. The item or group of items has a fair market value of less than \$500.00;
 - ii. The property is no longer necessary for the conduct of public business; and
 - iii. Sound property management principles and financial considerations indicate that the interests of the town would best be served by disposing of the property.
- (b) The Town Board of Commissioners may dispose of any such surplus personal property by any means that they judge reasonably calculated to yield the highest attainable sale price in money or other consideration, including but not limited to the methods of sale provided in G.S. 160A-265 et seq. Such sale may be public or private, and with or without notice and minimum waiting period.
- (c) The surplus property shall be sold to the party who tenders the highest offer, or exchanged for any property or services to the town if greater value may be obtained in that manner, and the Town Board of Commissioners is authorized to execute and deliver any applicable title documents. If no offers are received within a reasonable time, the Town Board of Commissioners may retain the property, obtain any reasonably available salvage value, or cause it to be disposed of as waste material. No surplus

property may be donated to any individual or organization except by resolution of the Town Board of Commissioners.

- (d) The town finance officer shall, on or before February 1, report in writing to the Town Board of Commissioners on any property disposed of under these provisions from July 1 through December 31 of the previous year, and shall, on or before August 1, report in writing to the Town Board of Commissioners on any property disposed of under the provisions of this section from January 1 through June 30 of that year. The written report shall generally describe the property sold or exchanged, to whom it was sold, or with whom exchanged, and the amount of money or other consideration received for each sale or exchange since the last such report was submitted.

(Ord. 119)

SECTIONS 2-80. – 2-90. – RESERVED.

CHAPTER 3. – ADVERTISING

ARTICLE 1. - GENERAL

SECTION 3-1. – DESTROYING OR MUTILATING BILLS, POSTERS, ETC.

It shall be unlawful for any person to destroy or mutilate any bill, advertisement, sign or poster, without the knowledge, consent or approval of the person to whom such bills, advertisements, signs or posters belong, whenever such are placed where he has the right to place them.

State Law Reference—*Injuring notices, signs and advertisements generally, G.S. § 14-384; defacing or destroying legal notices and advertisements, § 14-385.*

SECTION 3-2. – FASTENING SIGNS.

It shall be unlawful for any person to paste, tack, fasten or lean against any building, wall, fence, tree, pole, post or any other property any advertising sign, cards or placards, without the consent or approval of the owner of such property.

State Law Reference—*Unlawful posting of advertisements, G.S. § 14-145.*

SECTION 3-3. – POSTING SIGNS ON PUBLIC PROPERTY PROHIBITED.

It shall be unlawful for any person to post any bill, placard, handbill, flyer, painting, sign, or other similar object on or over any street right-of-way, property owned by the Town, or property established as a beautification site by the Town unless approved by the Town Board of Commissioners. The provisions of this section shall not be applicable to any signs, signals, markings and devices placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic and to political campaign signs regulated by the provisions of Article II of Chapter 3 of the Code.

SECTIONS 3-4. – 3-10. – RESERVED.

ARTICLE 2. – POLITICAL CAMPAIGN SIGNS

SECTION 3-11. – DEFINITIONS.

For the purposes of this article, the following words or phrases shall have the meanings respectively ascribed to them in this section:

Political campaign sign means any sign urging the election or defeat of any candidate seeking any political office, or urging the passage or defeat of any referendum issue.

Public property means all property owned by the Town, all property established as a beautification site by the Town and its tree commission, all public streets, any area within the visibility triangle at a street intersection for a distance of 25 feet from any intersection of a street boundary line, and everything affixed thereto and there over.

Sign means and includes any bill, poster, placard, handbill, flyer, painting, sign or other similar object in any form whatsoever which contains printed or written matter in words, symbols, or pictures, or in any combination thereof.

Street boundary line means the curb line or other edge of the travelled portion of a public street.

SECTION 3-12. – POSTING ON PUBLIC PROPERTY PROHIBITED.

No person shall post a political campaign sign on or over any public property in the Town. Posting of political campaign signs at polling places on the day of the election shall not be a violation of this section.

SECTION 3-13. – OTHER PROHIBITED LOCATIONS.

- (a) No person shall post a political campaign sign so that it substantially interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads.
- (b) No person shall attach a political campaign sign to a traffic control device or sign, utility pole or structure, or tree located upon public property or within the public right-of-way.

SECTION 3-14. – POSTING TIME LIMITS.

Within portions of a public right-of-way not included in the scope of public property as defined by Section 3-12, no person shall post a political campaign sign more than ninety (90) days prior to the election for which the sign is posted and fail to remove a political campaign sign within ten (10) days after the election for which the sign was posted.

SECTION 3-15. – SIZE LIMITS.

- (a) Within portions of a public right-of-way not included in the scope of public property as defined by Section 3-11, no person shall post a political campaign sign with a surface area exceeding 16 square feet and no person shall post a political campaign sign with a surface area exceeding four square feet between the travelled portion of the street and a line running parallel and five feet from the outer edge of the street, and everything affixed thereto and there over.
- (b) Within portions of the visibility triangle at a street intersection for a distance of 50 feet from any intersection of the street boundary line, no person shall post a political campaign sign with a height exceeding 24 inches. The provisions of this subsection shall not permit the posting of signs otherwise prohibited pursuant to the provisions of this article.

SECTION 3-16. – REMOVAL OF ILLEGAL SIGNS.

Political campaign signs in violation of this article are hereby declared to be public nuisances and may be abated as such by the Town. The Director of Public Works or his authorized agents are hereby authorized to remove any political campaign sign found posted within the corporate limits of the Town when such sign is in violation of the provisions of this article.

SECTION 3-17. – STORAGE, NOTICE, RETURN.

If the director or his agents remove any political sign, he shall keep a record of the location from which the sign was removed. He shall store the political campaign sign in a safe location for at least ten days and shall immediately notify by telephone the candidate, committee or person responsible for the posting of the sign, indicating the fact of removal and the location where it may be retrieved. If the director is unable to make telephone contact, he shall provide written notice, if the address of the candidate, committee, or person is known

or can be ascertained. The director shall return any political campaign sign upon the payment of the fee provided in section 3-18.

SECTION 3-18. – REMOVAL OF SIGN; CHARGE.

The Town shall be entitled to receive the sum written in the adopted annual budget ordinance for every political campaign sign removed by the director or his agents due to the sign being posted greater than three days after the election for which the sign was posted, to cover the expense of removal, notice and storage. In cases where unusual effort is needed to remove a sign, such as the cutting or removal of supporting structure, use of aerial devices, towing of trailer signs, or other unusual situation, the Town shall collect from the person responsible a sum sufficient to cover the costs and hourly wages of employees so utilized.

SECTION 3-19. – CANDIDATE RESPONSIBLE FOR THE POSTING OF POLITICAL CAMPAIGN SIGNS; EXCEPTIONS.

In a campaign for political office, the candidate for such office shall be deemed the person responsible for the posting of political campaign signs, unless he first notifies the Town Clerk and the Director of Public Works of another person who is responsible. In such case, the candidate shall provide the name, address, telephone number, and signed consent of such other responsible person. In a campaign regarding a referendum issue, the president of the committee supporting or opposing such referendum issue shall be deemed responsible, unless he first notifies the Town Clerk or Director of Public Works of some other person responsible, in the manner described above. The candidate, or in the case of a referendum issue, the committee president, or other responsible person if so designated, shall be liable to pay any fees or costs for the removal and storage of illegal signs, as set out herein. Nothing in this section shall be interpreted to make any person liable for any sign posted by persons unknown to him or her, or by persons over whom he or she has no control.

SECTIONS 3-20 – 3-25. – RESERVED.

CHAPTER 4. – ANIMALS AND FOWL

ARTICLE 1. - GENERAL

SECTION 4-1. – ANIMAL CONTROL.

The Town of Wagram adopts by reference the *Scotland County Animal Control Ordinance Declaring Owner Responsibility for the Management of Animals, Domestic Animals, Exotic Animals, Dangerous Dogs and Dangerous Animals, as amended.*

SECTION 4-2. – DISPOSAL OF DEAD ANIMALS.

No person shall deposit or cause to be deposited the carcass of any dead animal in the streets, roads, alleys, woods or waters within the corporate limits of the Town. Except for cows and horses, the bodies or carcasses of dead animals will be removed at any time upon request during the Town's working hours if placed in an accessible location on the premises.

State Law Reference— Department of transportation's authorization to remove dead animals from rights-of-way, G.S. § 136-118(21); disposition of dead domesticated animals, G.S. § 106-403.

SECTION 4-3. – KEEPING OF LIVESTOCK WITHIN THE TOWN LIMITS.

It shall be unlawful for a resident of the Town of Wagram to keep or harbor livestock including cattle, sheep, goats and swine within the Town limits.

SECTION 4-4 – KEEPING CHICKENS WITHIN TOWN LIMITS.

Chickens will be allowed upon issuance of a valid permit within the municipal limits of the Town of Wagram provided that:

- (1) No more than six chickens shall be kept or maintained on any individual lot.
- (2) The chickens must be confined in a chicken coop not less than four square feet of floor area for each chicken. Chicken coops must not exceed eight feet in height at the peak of the roof.
- (3) Chickens may be allowed outside their coops during daytime hours if fencing is constructed to restrict the chickens from leaving the owner or possessor's property
- (4) The chicken coop and/or property shall be kept clean, sanitary and free from accumulation of animal excrement and objectionable odors.
- (5) The chicken coop shall be a minimum of 30 feet from the nearest residence other than that of the owner and a minimum of five feet from the lot line. Not all lots in town will be able to accommodate chicken coops.
- (6) If chickens are removed from the premises for a violation of this section or other applicable law, the owner or possessor is not allowed to obtain a chicken permit for a minimum of one year from the date of removal.
- (7) No residential sale of slaughtered chickens is allowed within the Town of Wagram
- (8) Noisy fowl. It shall be unlawful for any person to keep or maintain on any premises or lot within the town any rooster or other such bird or fowl that by loud and habitual crowing or in any other

manner constitutes a public nuisance. Failure to abate such nuisance within two (2) days after written notice to do so from any Town official authorized by the Town of Wagram Board of Commissioners shall be a violation of this Ordinance and punishable pursuant to Section 2 (a) below

SECTION 4-5. – CITATIONS FOR VIOLATION OF CHICKEN ORDINANCE

Any Town Official authorized by the by the Town of Wagram Board of Commissioners may issue to the known owner or custodian of any animal, or any other violator, a citation giving notice of the violation of this ordinance. Citations so issued may be delivered in person or mailed by registered mail to the person charged if that person cannot be readily found. The citation issued shall impose upon the custodian or violator a civil penalty of fifty (\$50.00) dollars which may be paid to the Town Clerk within fourteen (14) days of receipt in full satisfaction of the assessed civil penalty.

In the event that the custodian of the animal or any other violator does not appear before the Town Clerk in response to the above described citation or the applicable civil penalty is not paid within the time period prescribed, a criminal summons may be issued against the custodian of the animal or any other violator for violation of the Ordinance and upon conviction the custodian or other violator shall be punished as provided by state law and be subject to a fine of five hundred (\$500.00) dollars or imprisonment for not more than thirty (30) days.

(Ord. 5 March 2015)

SECTION 4-6. – REMOVAL OF FECES DEPOSITED BY DOGS REQUIRED.

- (a) It shall be unlawful for any person walking or in control of any dog to allow or permit such animal to defecate upon any public property, including but not limited to parks, trails, streets, sidewalks and school grounds, unless such person removes all feces and other animal waste so deposited by such animal before leaving the immediate premises.
- (b) It shall be unlawful for any person walking or in control of any dog to allow or permit such animal to defecate upon any private property not owned by or in the possession of the person that owns such dog, unless such person removes all feces and other animal waste so deposited by such animal before leaving the immediate premises; provided that this restriction shall not apply if the owner or other person in possession of such private property has in writing authorized the dog to be walked on such property without the removal of feces so deposited.
- (c) This section shall not apply to dogs being walked by persons with visual or other physical disabilities that substantially interfere with the ability of such persons to comply with its provisions.
- (d) All feces removed in accordance with the provisions of this section shall be (i) properly wrapped or packaged to contain odors and protect the public health, and deposited in a trash container where the person making the deposit is otherwise authorized to deposit trash, or (ii) disposed of in another sanitary manner.

SECTION 4-7. – DOGS IN PENS / OUTDOOR SHELTERS

- (a) The size of the pen is determined by the size and number of dogs housed therein. Dogs housed together must be socially compatible. No more than four (4) compatible dogs are to be housed in a single pen. Minimum space for dogs in pens (not including shelter space) shall be as follows:

Number of Dogs	Small (<25 lbs.)	Medium (25—50) lbs.	Large (> 50 lbs.)
1	3 × 7 (21 sq. ft.)	6 × 10 (60 sq. ft.)	8 × 10 (80 sq. ft.)
2	4 × 8 (32 sq. ft.)	8 × 10 (80 sq. ft.)	8 × 12 (96 sq. ft.)
3	5 × 9 (45 sq. ft.)	8 × 12 (96 sq. ft.)	10 × 14 (140 sq. ft.)
4	8 × 10 (80 sq. ft.)	10 × 12 (120 sq. ft.)	12 × 16 (192 sq. ft.)

- (b) All animals kept outdoors shall have access to shelter / shade that provides protection from weather, i.e. wind, precipitation or other inclement weather conditions.
- (c) Shelter shall be well constructed and appropriate for the species. Consideration shall be given to the animal’s physical condition when determining whether available shelter is proper.
- (d) All animals shall be able to stand their full height, stretch out, turn around, lie down and make normal postural adjustments comfortably.
- (e) Animals shall be allowed to exercise and have freedom of movement as necessary to reduce stress and maintain good physical condition. Space and provisions for exercise must be appropriate for the species and sufficient to meet the needs of the animal.
- (f) Space available to the animal must be useable, i.e., maintained in a safe and healthy manner, free of standing water, accumulated waste and debris.

SECTION 4-8. – PENALTY FOR VIOLATION.

- (a) Any Town official authorized by the Town Board of Commissioners may issue to the known owner or custodian of any animal, or to any other violator, a citation giving notice of the violation of this chapter. Citations so issued may be delivered in person or mailed by registered mail to the person charged if that person cannot be readily found. The citation issued shall impose upon the custodian or violator a civil penalty of fifty (\$50.00) dollars which may be paid to the Town Clerk within fourteen (14) days of the receipt in full satisfaction of the assessed civil penalty. The penalty is in addition to any other fees and penalties authorized by this chapter or state law.
- (b) In the event that the custodian of the animal or any other violator does not appear before the Town Clerk in response to the above described citation or applicable civil penalty is not paid within the time period prescribed, a criminal summons may be issued against the custodian of the animal or any other violator for violation of this chapter and upon conviction the custodian or other violator shall be punished as provided by state law and be subject to a fine of five hundred (\$500.00) dollars or imprisonment for not more than thirty (30) days.

SECTIONS 4-9. – 4-25. – RESERVED.

CHAPTER 5. – BUILDING REGULATIONS

ARTICLE 1. – GENERAL

SECTION 5-1. – TERRITORIAL BOUNDARY.

Pursuant to the Charter, this chapter of the Code is hereby made effective and enforceable within the corporate limits of the Town of Wagram.

SECTION 5-2. – STATE BUILDING CODE ADOPTED.

Pursuant to G.S. 143-138, the North Carolina State Building Code, as adopted by the Building Code Commission, and all volumes thereof are hereby adopted as a part of this Code to the same extent as if set out in full herein, and such code as it now exists and as the same may hereafter be modified or amended by the Building Code Commission of the State of North Carolina shall be in full force and effect within the Town.

SECTION 5-3. – BUILDING INSPECTIONS.

Pursuant to an agreement between the Town of Wagram and Scotland County, all building inspections shall be provided by Scotland County and all persons intending to build or alter any structure in any manner are referred to the Scotland County Building Inspections Department.

COUNTY of SCOTLAND
INSPECTION AND PERMITTING DEPARTMENT
507 West Covington Street
Laurinburg, North Carolina 28352
Telephone: 910-277-2415
Website: www.scotlandcounty.org
Building Safety / Code Enforcement

SECTIONS 5-4. - 5-5. – RESERVED.

ARTICLE 2. – ABANDONED STRUCTURES

SECTION 5-6. – GENERAL.

Pursuant to North Carolina General Statute 160A-441, the Town is authorized to provide for the repair, closing, or demolition of abandoned structures found to be a health or safety hazard. Fees for administration of this article shall be set by the Town and included in the Schedule of Rates and Fees.

SECTION 5-7. – PERMIT REQUIRED.

Pursuant to an agreement between the Town of Wagram and Scotland County, no person, firm, or corporation shall demolish any building, structure system without first obtaining a permit for such from the Inspection Department. (G.S. 143-138 (b), 153A-357, 160-417) and (G.S. 160A-446).

SECTION 5-8. – FINDING; INTENT.

- (a) It is hereby found that there exists within the town abandoned structures that the Town Board of Commissioners finds to be hazardous to the health, safety and welfare of the residents of the town due to the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities.
- (b) Therefore, pursuant to the authority granted by G.S. § 160A-441, it is the intent of this subchapter to provide for the repair, closing or demolition of any such abandoned structures in accordance with the same provisions and procedures as are set forth by law for the repair, closing or demolition of dwellings unfit for human habitation.

SECTION 5-9. – CODE ENFORCEMENT OFFICER DESIGNATED; CAN BE BUILDING INSPECTOR; DUTIES.

The Zoning Code Enforcement Officer of the Town of Wagram is hereby designated as the Building Inspector for the purposes of this article.

The Building Inspector is hereby designated as the town officer to enforce the provisions of this subchapter. It shall be the duty of the Building Inspector:

- (a) To locate abandoned structures within the town, and determine which structures are in violation of this subchapter;
- (b) To take such action pursuant to this subchapter as may be necessary to provide for the repair, closing or demolition of such structures;
- (c) To keep an accurate record of all enforcement proceedings begun pursuant to the provisions of this subchapter; and
- (d) To perform such other duties as may be prescribed herein or assigned by the Town Board of Commissioners.

SECTION 5-10. – POWERS OF THE BUILDING INSPECTOR.

The Building Inspector is authorized to exercise such powers as may be necessary to carry out the intent and the provisions of this subchapter, including the following powers in addition to others herein granted:

- (a) To investigate the condition of buildings within the town in order to determine which structures are abandoned and in violation of this subchapter;
- (b) To enter upon premises for the purpose of making inspections;
- (c) To administer oaths and affirmations, examine witnesses, and receive evidence; and
- (d) To designate such other officers, agents and employees of the town as he or she deems necessary to carry out the provisions of this subchapter.

SECTION 5-11. – STANDARDS FOR ENFORCEMENT.

(a) Every abandoned structure within the town shall be deemed in violation of this subchapter whenever such structure constitutes a hazard to the health, safety or welfare of the town citizens as a result of:

- (1) The attraction of insects or rodents;
- (2) Conditions creating a fire hazard;
- (3) Dangerous conditions constituting a threat to children; or
- (4) Frequent use by vagrants as living quarters in the absence of sanitary facilities.

(b) In making the preliminary determination of whether or not an abandoned structure is in violation of this subchapter, the Building Inspector may, by way of illustration and not limitation, consider the presence or absence of the following conditions:

- (1) Holes or cracks in the structure's floors, walls, ceilings or roof, which might attract or admit rodents and insects, or become breeding places for rodents and insects;
- (2) The collection of garbage or rubbish in or near the structure, which might attract rodents and insects, or become breeding places for rodents and insects;
- (3) Violations of the State Building Code, the State Electrical Code, and the Fire Prevention Code that constitute a fire hazard in such structure;
- (4) The collection of garbage, rubbish or combustible material that constitute a fire hazard in such structure;
- (5) The use of such structure or nearby grounds or facilities by children as a play area;
- (6) Violations of the State Building Code that might result in danger to children using the structure or nearby grounds or facilities as a play area; and
- (7) Repeated use of such structure by transients and vagrants, in the absence of sanitary facilities, for living, sleeping, cooking or eating.

SECTION 5-12. – PROCEDURE FOR ENFORCEMENT.

(a) *Preliminary investigation; notice; hearing.*

- (1) Whenever a petition is filed with the Inspector by at least five residents of the town, charging that any structure exists in violation of this subchapter, or whenever it appears to the Inspector, upon inspection, that any structure exists in violation hereof, he or she shall, if his or her preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such structure, a complaint, stating the charges and containing a notice that a hearing will be held before the Inspector at a place therein fixed, not less than ten nor more than 30 days after the serving of the complaint.
- (2) The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint.
- (3) Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such structure.
- (4) Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard.
- (5) The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Inspector.

(b) *Procedure after hearing.*

- (1) After such notice and hearing, the Inspector shall state in writing his or her determination whether such structure violates this subchapter.
- (2) If the Inspector determines that the dwelling is in violation, he or she shall state in writing his or her findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve such structure, or else remove or demolish the same within a specified period of time not to exceed 90 days.

(c) *Failure to comply with order.*

- (1) *In Personam remedy.* If the owner of any structure shall fail to comply with an order of the Inspector within the time specified therein, the Inspector may submit to the Town Board of Commissioners, at its next regular meeting, a resolution directing the Town Attorney to petition the superior court for an order directing such owner to comply with the order of the Inspector, as authorized by G.S. § 160A-446(g).
 - (2) *In rem remedy.* After failure of an owner of a structure to comply with an order of the Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding division (1), the Inspector shall submit to the Town Board of Commissioners an ordinance ordering the Inspector to cause such structure to be removed or demolished, as provided in the original order of the Inspector, and pending such removal or demolition, to placard such dwelling as provided by G.S. § 160A-443.
- (d) *Petition to superior court by owner.* Any person aggrieved by an order issued by the Inspector shall have the right, within 30 days after issuance of the order, to petition the superior court for a temporary injunction restraining the Inspector pending a final disposition of the cause, as provided by G.S. § 160A-446(f).

SECTION 5-13. – METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

- (a) Complaints or orders issued by the Inspector shall be served upon persons, either personally or by registered or certified mail.
- (b) However, if the whereabouts of such persons are unknown and the same cannot be ascertained by the Inspector in the exercise of reasonable diligence, the Inspector shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publication in a newspaper having general circulation in the town, at least once no later than the time at which personal service is required under §5-12.
- (c) Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

SECTION 5-14. – IN REM ACTION BY THE BUILDING INSPECTOR; PLACARDING.

- (a) After failure of an owner of a structure to comply with an order of the Inspector issued pursuant to the provisions of this subchapter, and upon adoption by the Town Board of Commissioners of an ordinance authorizing and directing him or her to do so, as provided by G.S. § 160A-443(5) and §5-12, the Inspector shall:
 - (1) Proceed to cause such structure to be repaired, removed or demolished, as directed by the ordinance of the Town Board of Commissioners; and
 - (2) Cause to be posted on the main entrance of such structure a placard prohibiting the use or occupation of the structure.
- (b) Use or occupation of a building so posted shall constitute a misdemeanor.
- (c) Each such ordinance shall be recorded in the Office of the Register of Deeds of Scotland County, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. § 160A-443(5).

SECTION 5-15. – COSTS OF LIEN ON PREMISES.

- (a) As provided by G.S. § 160A-446(6), the amount of the cost of any removal or demolition caused to be made or done by the Inspector pursuant to this subchapter shall be a lien against the real property upon which such cost was incurred.

- (b) Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by Article 10, Chapter 160A of the General Statutes.

SECTION 5-16. – ALTERNATIVE REMEDIES.

Neither this subchapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances, and to cause their abatement by summary action or otherwise, or to enforce this subchapter by criminal process, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

SECTION 5-17. – GENERAL RIGHT TO APPEAL.

Unless otherwise provided by law, appeals from any order, decision, or determination by a member of the Inspection Department pertaining to the state building code or other state building laws shall be taken to the Commissioner of Insurance or other official specified in G.S. § 143-139, by filing a written notice with him and with the Inspection Department within a period of ten days after the order, decision, or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law.

State Law Reference: NC Gen Stat. § 160A-434

SECTION 5-18. – REMEDIES.

Whenever any violation is denominated a misdemeanor under the provisions of this chapter, the town, 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.

State Law Reference: NC Gen Stat. § 160A-432

SECTION 5-19. – PENALTY.

Whoever violates any provision of this chapter shall be subject to the penalties provided in this ordinance.

SECTIONS 5-20 – 5-50. - RESERVED.

CHAPTER 6. – CABLE COMMUNICATIONS

ARTICLE 1. - GENERAL

SECTIONS 6.1 – 6.50. - RESERVED.

CHAPTER 7. – CEMETERIES

ARTICLE 1. - GENERAL

SECTIONS 7-1. – 7-100. – RESERVED.

CHAPTER 8. - HEALTH AND SANITATION

ARTICLE 1. - GENERAL

SECTION 8-1. – INSPECTION AUTHORITY.

Subject to constitutional limitations, the county health officer or his designee is hereby authorized to enter upon and inspect all premises within the corporate limits of the Town to see that the premises are kept in a sanitary condition and in a safe condition from fire hazard and is authorized to notify the owners of property to require them to remedy any unlawful conditions which he may observe or see on or about the premises. Such notice shall be given to the owner or to the person in charge of the property. Such officer shall have authority and power, in a lawful manner, to cause the owner or occupant of the premises to remedy such conditions or be prosecuted. The special officer shall be entitled to wear and exhibit a badge as special officer, with power and authority as specified in this section.

SECTION 8-2. – ACCUMULATION OF SUBSTANCES DETRIMENTAL TO PUBLIC HEALTH.

- (a) No owner or occupant of any house or lot shall suffer to remain on the lot owned or occupied by him any decaying flesh, manure, vegetable matter, weeds, overgrowth or anything which may decay and attract flies, mosquitoes or other insects endangering the health of the community without burying, covering or treating the same to prevent danger of disease.
- (b) No person owning or occupying any house or lot within the corporate limits of the Town who maintains thereon any livestock shall permit to accumulate thereon any manure or waste matter in such manner as to become unsanitary and endanger the health of the people of the community.

SECTION 8-3. – LIABILITY FOR NUISANCES OR VIOLATIONS

The owner, lessee, tenant or occupant of any building or premises where there shall be a nuisance or any violation of any provision of this Code, state law or ordinance of the Town relating to health and sanitation shall be jointly and severally liable therefore and may be required to abate the same or comply with the order of the county health officer or his assistants within the specified time within the order.

SECTION 8-4. – SURFACE PRIVIES AND CESSPOOLS.

It shall be unlawful for any person, whether owner, head of family, tenant, lessee or other person in possession of any premises within the Town, to maintain or permit to be maintained thereon any surface privy or cesspool.

(1949 Ordinance, Chapter F)

SECTION 8-5. – SEPTIC TANKS.

It shall be unlawful to install and operate a septic tank system at any location where public sewer service is available. Septic tanks and drain fields may be installed and operated within the Town limits only at locations

where public sewer service is not available. Public sewer service shall be considered to be available wherever a Town-operated sanitary sewer collection line is located within two-hundred (200) feet of a dwelling or structure and a sewer lateral line built in conformance with the state building code can be constructed to allow connection to the sanitary sewer collection line without requiring the owner of the dwelling or structure to cross the privately owned property of others. Where used, septic tanks and drainage fields must be approved by the county health department. When a septic tank and drain field have been installed in a location at which public sewer service subsequently becomes available, connection to the sanitary sewer system shall be required within sixty (60) days of any malfunction or failure of either the septic tank or the drain field. It is not required that residences served by properly functioning septic tanks and drain fields installed prior to the availability of public sewer service connect to the sanitary sewer system.

(1949 Ordinance, Chapter F)

SECTION 8-6. – 8-25. – RESERVED.

ARTICLE 2. – MOSQUITO CONTROL

SECTION 8-26. – PURPOSE AND DEFINITIONS.

The purpose of mosquito control is to protect the public health. For the purpose of this article, any "collection of water" means water contained in ditches, pools, ponds (natural or artificial), excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, shallow wells, barrels, troughs (except horse troughs in frequent use), urns, cans, boxes, bottles, tubs, buckets, defective house roof gutters, tanks of flush closets or other similar containers.

State Law Reference— Mosquito and vector control, G.S. § 130A-346 et seq.

SECTION 8-27. – RIGHT OF ENTRY.

For the purpose of enforcing the provisions of this article and subject to constitutional limitations, the health officer may at all reasonable times enter in and upon any premises within his jurisdiction.

SECTION 8-28. – PRESUMPTION OF VIOLATION.

The natural presence of mosquito larvae in standing or running water shall be evidence that mosquitoes are there, and failure to prevent such breeding within three (3) days after notice by the health officer shall be deemed a violation of this article.

SECTION 8-29. – ENFORCEMENT BY TOWN; COSTS.

Should the person responsible for the condition giving rise to the breeding of mosquitoes fail or refuse to take necessary measures to prevent the condition, within three (3) days after due notice has been given to him, the Town is hereby authorized to do so, and all necessary costs incurred by the Town for this purpose shall be a charge against the property owner or other person offending, as the case may be.

SECTION 8-30. – BREEDING PLACES PROHIBITED.

It shall be unlawful to have, keep, maintain, cause or permit within the Town any collection of standing or flowing water in which mosquitoes breed or are likely to breed, unless such collection of water is treated so as to effectually prevent such breeding.

SECTION 8-31. – METHODS OF TREATMENT.

The method of treatment of any collection of water, directed toward the prevention of breeding of mosquitoes, shall be approved by the health officer, and may be one (1) or more of the following:

- a) Screening with wire netting of at least sixteen (16) meshes to the inch, each way, or with any other material which will effectually prevent the ingress or egress of mosquitoes;
- b) Complete emptying every seven (7) days of unscreened containers, together with their thorough drying or cleaning;
- c) Using an approved larvicide applied under the direction of the health officer;
- d) Cleaning and keeping sufficiently free of vegetable growth and other obstructions and stocking with mosquito-destroying fish;
- e) Proper disposal by the removal or destruction of tin cans, tin boxes, broken or empty bottles and similar articles likely to hold water;
- f) Effective drainage of all impounded water in ditches, pools, ponds, excavations, holes, depressions and marshes.

SECTIONS 8-32. – 8-50. – RESERVED.**ARTICLE 3. - RODENT CONTROL****SECTION 8-51. – PURPOSE AND DEFINITIONS.**

The purpose of this section is to provide for protection of the public health. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business building means any structure, whether public or private, regardless of the type of material used in its construction, that is located within the boundaries of the Town and adapted to occupancy for transaction of business, whether vacant or occupied, for the rendering of professional services, for the display, sale or storage of goods, wares or merchandise, or for the performance of work or labor, including hotels, rooming houses, apartment houses, beer parlors, office buildings, public buildings, theaters, stores, markets, restaurants, warehouses, grain elevators, slaughterhouses, workshops, factories, and all public or private structures where domestic or other animals are kept.

Occupant means the individual, partnership or corporation that has the use of or occupies any business building or any part thereof, whether the actual owner or tenant. In the case of vacant business buildings or any

vacant portion of a business building, the owner thereof shall have the responsibility of or be deemed the tenant thereof.

Opening means and refers to any opening in the foundation, sides or walls, ground or first floors, basements and roofs, including chimneys, eaves, grills, windows, ventilators, sidewalk grates and elevators, and around any pipe, wire or other installation connecting with a building through which a rat may enter.

Owner means the actual owner of the business building, whether an individual, partnership or corporation, or agent of the building or other person having custody of the building or to who rent is paid. For business buildings leased with a covenant in the lease specifying that the lessee is responsible for maintenance and repairs, the lessee will be considered in such cases as the "owner" for the purpose of this article.

Premises includes all business buildings, sheds, barns, animal pens or shelters, garages, docks, wharves, piers, grain elevators and abattoirs, whether public or private, used in connection with the operation of any business building.

Rat eradication means the removal, killing, destruction or extermination of rats by systematic use of traps or of poisons or by other methods.

Rat harborage means any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside of a structure of any kind.

Rat-stoppage or rat proofing applies to a relatively inexpensive form of rat proofing to prevent the ingress of rats into business buildings from the exterior or from one (1) building or business establishment to another. It consists essentially of the closing or protection of all openings in the exterior walls, ground or first floors, basements, roofs and foundations with material impervious to rat gnawing in such a manner as to prevent rats from gaining entrance.

SECTION 8-52. – AUTHORITY OF HEALTH OFFICER.

Subject to constitutional limitations, the health officer is empowered to make such inspections of the interior and exterior of business buildings as in his opinion may be necessary to determine full compliance with this article, and the health officer shall make periodic inspections of all rat proofed buildings to determine evidence of rat infestation and the existence of new breaks or leaks in their rat proofing. Whenever evidence is found indicating the presence of rats or openings through which rats may again enter business buildings, the health officer shall serve the owner with notices and orders to abate the conditions found, and a failure to remedy the conditions within three (3) days after notice shall be deemed a violation of this article.

SECTION 8-53. – BUSINESS BUILDINGS TO BE RAT PROOF.

- a) In the interest of the public health and to prevent the spread of typhus fever and other rat-borne diseases and infections, it is hereby required and ordered that all business buildings within the Town be made rat proof in order to prevent entry of rats into and upon the premises, and the business buildings shall be kept and maintained in a rat-free condition.
- b) All newly constructed business buildings and additions to existing business buildings shall be rat proofed during the process of construction.
- c) The owners of all rat proofed business buildings shall maintain the same in a rat proof condition and repair all breaks or leaks that may occur in the rat proofing, and the occupants of all rat proofed business buildings shall take such action as may be necessary and appropriate to eradicate all rats from the buildings and to keep the same free from rats.

(1949 Ordinance, Chapter F)

SECTION 8-54. – MAINTENANCE OF RAT PROOFING.

It shall be unlawful for the occupant, owner, contractor, Public Utility Company, plumber, electrician or any other person to remove the rat proofing from any business building for any purpose and fail to restore the same in a satisfactory condition or make any new openings and fail to close and seal same against the entrance of rats.

SECTION 8-55. – STORAGE OF FEED FOR ANIMALS AND FOWL.

All food and feed kept for feeding chickens and other animals shall be kept and stored in rat-free and rat proof containers, compartments or rooms unless kept in a rat proofed building.

SECTION 8-56. – STORAGE OF MATERIALS.

It shall be unlawful for any person to store or accumulate on any premises, improved or vacant, any lumber, boxes, barrels, bricks, stones or similar materials unless the same shall be neatly stored, stacked or accumulated so that these materials will not afford harborage for rats.

SECTIONS 8-57. – 8-65. – RESERVED.**ARTICLE 4. – SMOKING IN PUBLIC PLACES****SECTION 8.66. – DEFINITION**

"Smoking" shall mean the inhaling, exhaling, burning or carrying or lighted pipe, cigar, cigarettes or other combustible tobacco product.

SECTION 8.67. – WHERE SMOKING PROHIBITED OR REGULATED

- a) *Smoking prohibited in municipal buildings and grounds.* It shall be unlawful for any person to smoke in any building or facility, or portion of a building or facility, or on any grounds now or hereafter now or hereafter owned, leased, operated, occupied, managed or controlled by the Town of Wagram.
- b) *Smoking regulated in municipal vehicles.* It shall be unlawful for any person to smoke in any vehicle now or hereafter owned or leased by the Town.
- c) *Smoking prohibited within sports facilities.* It shall be unlawful for any person to smoke within any and all sports facilities owned by the Town.

State Law Reference— *Public Health Law of North Carolina, G.S. § 130A-1 et seq.; abatement of public health nuisances, G.S. § 160A-193.*

SECTION 8-68. – PENALTY.

Violation of this section shall constitute an infraction punishable by a fine of not more than fifty dollars (\$50.00).

SECTIONS 8-69. – 8-75. – RESERVED.

CHAPTER 9. – HOUSING

ARTICLE 1. – MINIMUM STANDARDS

SECTION 9-1. –FINDING AND PURPOSE.

Pursuant to G.S. section 160A-441, it is hereby found and declared that there exist in the Town dwellings which are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents and other calamities; lack of ventilation, light and sanitary facilities; and other conditions, and there exist abandoned structures which constitute health and safety hazards due to the attraction of insects, conditions creating fire hazards, dangerous conditions constituting a threat to children, and frequent use by vagrants, such that these dwellings and abandoned structures are detrimental to the health, safety and morals and otherwise harmful to the welfare of the residents of the Town.

In order to protect the health, safety and welfare of the residents of the Town as authorized by part 6 of Article 19 chapter 160A of the General Statutes, it is the purpose of this article to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, and for all abandoned structures, as expressly authorized by G.S. section 160A-441.

State Law Reference— Authority to adopt and enforce ordinances relating to dwellings that are unfit for human habitation, G.S. § 160A-443. State Law Reference— Minimum housing standards, G.S. § 160A-441 et seq.

SECTION 9-2. –DEFINITIONS.

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

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

Building Inspector means the zoning code enforcement officer inspector of the Town .

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

Deteriorated means that a dwelling is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by this article, at a cost not in excess of fifty (50) percent of its value, as determined by the finding of the inspector.

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

Dwelling means any building which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided that temporary housing shall not be regarded as a dwelling.

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

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

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

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

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

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

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

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

Owner means any person who alone or jointly or severally with others:

- (1) Shall have title to any dwelling unit, with or without accompanying actual possession thereof;
- (2) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner or as executor, administrator, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner; or
- (3) Is a mortgagee of record with respect to the property where such dwelling is located.

Parties in interest means all individuals, associations and corporations who have interests of record in a dwelling and any who are in possession thereof.

Plumbing means and includes all of the following supplied facilities and equipment: Gas pipes, gas-burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch

basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

Public authority means the redevelopment commission or any officer who is in charge of any department or branch of the government of the Town or of the county or the state relating to health, fire, building regulations or other activities concerning dwellings in the Town.

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

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

Rubbish means combustible and noncombustible waste materials, except garbage and ashes, and the word includes paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

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

Temporary housing means any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system on the same premises for more than thirty (30) consecutive days.

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

SECTION 9-3. –RULES OF CONSTRUCTION.

Whenever the words "dwelling," "dwelling unit," "rooming house," "rooming unit," and "premises" are used in this article, they shall be construed as though they were followed by the words "or any part thereof."

SECTION 9-4. –APPLICABILITY.

This article shall be in full force and effect within the Town and within any extraterritorial jurisdiction of the Town as adopted and defined by the Town pursuant to G.S. section 160A-360.

SECTION 9-5. –COMPLIANCE.

- (a) Every dwelling and dwelling unit used as a human habitation or held out for use as a human habitation shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of Sections 9.9. – 9.14. of this article. No person shall occupy as owner-occupant or let to another for occupancy or use as a human habitation any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of Sections 9.9. – 9.14. of this article.
- (b) The Clerk shall not provide nor permit another to provide either public or private utility services such as water, gas, electricity, sewer, etc., to any dwelling unit found to be substandard under this article which becomes vacant until such dwelling unit has been inspected and brought into compliance with this article and the applicable building codes.

SECTION 9-6. –POWERS AND DUTIES OF THE BUILDING INSPECTOR.

- (a) **Duties.** The building inspector is hereby designated as the officer to enforce the provisions of this article and to exercise the duties and powers prescribed. It shall be the duty of the building inspector to:
 - (1) Investigate the dwelling conditions and to inspect dwellings and dwelling units located in the Town in order to determine which dwellings and dwelling units are unfit for human habitation and for the purpose of carrying out the objectives of this article with respect to such dwellings and dwelling units;
 - (2) Take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;
 - (3) Keep a record of the results of inspections made under this article and an inventory of those dwellings that do not meet the minimum standards of fitness prescribed in this article; and
 - (4) Perform such other duties as may be prescribed in this article.
- (b) **Powers.** The building inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article, including the powers, in addition to others granted, to:
 - (1) Investigate the dwelling conditions in the Town in order to determine which dwellings therein are unfit for human habitation;
 - (2) Administer oaths and affirmations, examine witnesses and receive evidence;
 - (3) Enter upon premises, subject to constitutional limitations, for the purpose of making examinations and inspections; provided such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession; and

- (4) Appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this article.

SECTION 9-7. – INSPECTIONS; ACCESS TO OWNERS FOR MAKING REPAIRS OR ALTERATIONS.

Subject to constitutional limitations, for the purpose of making inspections, the inspector is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit or rooming unit or the person in charge thereof shall give the inspector free access to such dwelling, dwelling unit or rooming unit and its premises at all reasonable times for the purposes of such inspection, examination and survey.

Subject to constitutional limitations, every occupant of a dwelling or dwelling unit shall give the owner thereof or his agent or employee access to any part of such dwelling or dwelling unit and its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful order issued pursuant to the provisions of this article. Fees for such inspections shall be established by the Town and included in the Schedule of Rates and Fees.

SECTION 9-8. –RESPONSIBILITIES OF OWNERS AND OCCUPANTS.

- a) *Public areas.* Every owner of a dwelling containing two (2) or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.
- b) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.
- c) *Rubbish and garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases the owner shall be responsible for the availability of rubbish and garbage storage facilities.
- d) *Supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.
- e) *Care of facilities, equipment and structure.* No occupant shall willfully destroy, deface or impair any of the facilities or equipment or any part of the structure of a dwelling or dwelling unit.

SECTION 9-9. –STRUCTURAL CONDITIONS.

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

- (b) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.
- (c) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.
- (d) Steps, stairs, landings, porches or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.
- (e) Adequate facilities for egress in case of fire or panic shall be provided.
- (f) Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable materials which will, by use of reasonable household methods, promote sanitation and cleanliness and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.
- (g) The roof, flashings, exterior walls, basement walls, floors and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather tight and watertight.
- (h) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling or in such condition or location as to constitute a fire hazard. There shall be no hanging chimneys or flues.
- (i) There shall be no use of the ground for floors or wood floors on the ground.
- (j) All minimum standards prescribed by the state building code and state uniform residential building code adopted by Chapter 4 of this Code shall be complied with in all respects.

SECTION 9-10. –BASIC EQUIPMENT AND FACILITIES.

- (a) *Plumbing system.* The following are the minimum plumbing standards to meet the requirements of this article:
 - (1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system.
 - (2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet and adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.
 - (3) All plumbing fixtures shall meet the standards of the Town plumbing code as set forth in article VI of chapter 4 of this Code and the applicable provisions of articles IV and V of chapter 4 of this Code and shall be maintained in a state of good repair and in good working order.
 - (4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

- (b) *Heating system.* Every dwelling and dwelling unit shall have facilities for providing heat in accordance with articles 4, 5 and 6 of Chapter 4 of this Code with either paragraphs (1) or (2) of this subsection.
- (1) *Central and electric heating systems.* Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of seventy (70) degrees Fahrenheit measured at a point three (3) feet above the floor during ordinary winter conditions.
- (2) *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat all habitable rooms with a minimum temperature of seventy (70) degrees Fahrenheit measured three (3) feet above the floor during ordinary winter conditions.
- (c) *Electrical system.* The following are the minimum electrical standards to meet the requirements of this article.
- (1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two (2) floor or wall-type electric convenience receptacles, connected in such manner as determined by the Town electric code. There shall be installed in every kitchen, bedroom, bathroom, water closet room, laundry room, furnace room, corridor or hallway and porch at least one (1) supplied ceiling or wall-type electric light fixture. If wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three (3) floor or wall-type electric convenience receptacles. The electrical system of every dwelling and dwelling unit shall comply with all requirements of the Town electric code set forth in article 3 of Chapter 4 of this Code.
- (2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.
- (3) Every such outlet and fixture shall be properly installed, shall be maintained in good and safe working condition and shall be connected to the source of electric power in a safe manner.

SECTION 9-11. –VENTILATION.

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

is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least fifteen (15) percent of the total floor area of such room.

- b) *Habitable rooms.* Every habitable room shall have at least one (1) window or skylight which can easily be opened or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least forty-five (45) percent of the minimum window area size or minimum skylight-type window size as required or shall have other approved, equivalent ventilation.
- c) *Bathroom and water closet rooms.* Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

SECTION 9-12. –USE AND LOCATION OF SPACE.

- a) *Room sizes.* Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the state residential building code adopted by this Code. Every dwelling unit shall contain at least one hundred fifty (150) square feet of habitable floor area for the first occupant, at least one hundred (100) square feet of additional habitable area for each of the next three (3) occupants, and at least seventy-five (75) square feet of additional habitable floor area for each additional occupant. In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.
- b) *Ceiling height.* At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven (7) feet, six (6) inches.
- c) *Floor area calculation.* Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than ten (10) percent of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half (4½) feet shall not be considered as part of the floor area in computing the total area of the room to determine maximum permissible occupancy.
- d) *Cellar.* No cellar shall be used for living purposes.
- e) *Basements.* No basement shall be used for living purposes unless:
 - (1) The floor and walls are substantially watertight;
 - (2) The total window area, total openable window area and ceiling height are equal to those required for habitable rooms;
 - (3) The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the window or windows face a stairwell, window well or access way.

SECTION 9-13. –SAFE AND SANITARY MAINTENANCE.

- a) *Exterior foundation, walls and roofs.* Every foundation wall, exterior wall and exterior roof shall be substantially weather tight and rodent proof, shall be kept in sound condition and good repair, shall be capable of affording privacy, shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.
- b) *Interior floors, walls and ceilings.* Every floor, interior wall and ceiling shall be substantially rodent proof, shall be kept in sound condition and good repair, and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.
- c) *Windows and doors.* Every window, exterior door, basement or cellar door and hatchway shall be substantially weather tight, watertight and rodent proof and shall be kept in sound working condition and good repair.
- d) *Stairs, porches and appurtenances.* Every inside and outside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in sound condition and good repair.
- e) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.
- f) *Supplied facilities.* Every supplied facility, piece of equipment or utility which is required under this article shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.
- g) *Drainage.* Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.
- h) *Noxious weeds.* Every yard and all exterior property areas shall be kept free of species of weeds or plant growths which are noxious or detrimental to health.
- i) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by the Town building code adopted by section 4-26 of Chapter 4 of this Code.

SECTION 9-14. –CONTROL OF INSECTS, RODENTS AND INFESTATIONS.

- a) *Screens.* In every dwelling unit, for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and a self-closing device, and every window or other device with openings to outdoor space used or intended to be used for ventilation shall likewise be supplied with screens installed.
- b) *Rodent control.* Every basement or cellar window used or intended to be used for ventilation and every other opening to a basement which might provide an entry for rodents shall be supplied with screens installed or such other approved device as will effectively prevent their entrance.
- c) *Infestation.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one (1) dwelling unit shall be

responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonably insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two (2) or more dwelling units, extermination shall be the responsibility of the owner.

- d) *Rubbish storage and disposal.* Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by Town ordinance, and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.
- e) *Garbage storage and disposal.* Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit or an incinerator unit, to be approved by the inspector, in the structure for the use of the occupants of each dwelling unit, or an approved outside garbage can as required by Town ordinances.

SECTION 9-15. –STANDARDS APPLICABLE TO ROOMING HOUSES; EXCEPTIONS.

All of the provisions of this article shall be applicable to rooming houses and to every person who operates a rooming house or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as follows:

- a) *Water closet, hand lavatory and bath facilities.* At least one (1) water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four (4) rooms within a rooming house wherever the facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one (1) story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.
- b) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.
- c) *Sanitary conditions.* The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings and for the sanitary maintenance of every other part of the rooming house, and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.

- d) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin and bathtub or shower required by subsection (a) of this section shall be located within the rooming house and within a room or rooms which afford privacy and are separate from the habitable rooms and which are accessible from a common hall and without going outside the rooming house or through any other room therein.

SECTION 9-16. –PROCEDURE FOR ENFORCEMENT.

- a) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the inspector by a public authority or by at least five (5) residents of the Town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the inspector at a place therein fixed, not less than ten (10) nor more than thirty (30) days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one (1) of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the inspector.
- b) *Lis pendens.* Whenever the inspector issues a complaint and notice of hearing under subsection (a) of this section, the inspector shall file a notice of lis pendens, with a copy of the complaint and notice attached, in the office of the Clerk of Superior Court of Scotland County, all in accordance with G.S. Ch. 1, Art. 11.
- c) *Procedure after hearing.* After such notice and hearing, the inspector shall state in writing his determination whether such dwelling or dwelling unit is unfit for human habitation and, if so, whether it is deteriorated or dilapidated.
- (1) If the inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner, within sixty (60) days from the date of such order, either to (i) repair, alter or improve the dwelling or dwelling unit to comply with the minimum standards of fitness established by this article or (ii) vacate and close such dwelling or dwelling unit. The order may require that the property be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alternations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities. The order shall state that the failure to make timely repairs as directed in the order shall

- make the dwelling subject to the issuance of an unfit order under section 9-41(c) of this chapter.
- (2) If the inspector determines that the dwelling or dwelling unit is dilapidated, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner, within sixty (60) days from the date of such order, either to (i) repair, alter or improve the dwelling or dwelling unit to comply with the minimum standards of fitness established by this article, or (ii) demolish or remove the dwelling or dwelling unit.
- d) *Failure to comply with order:*
- (1) *In personam remedy.* If the owner of any deteriorated dwelling or dwelling unit fails to comply with an order of the inspector issued under subsection (b)(1) above, or the owner of a dilapidated dwelling or dwelling unit fails to comply with an order of the inspector issued under subsection (b)(2) above, the inspector may submit to the Town Board of Commissioners at its next regular meeting a resolution directing the Town attorney to petition the superior court for an order directing such owner to comply with the order of the inspector, as authorized by G.S. 160A-446(g).
- (2) *In rem remedy.* If the owner of a deteriorated or dilapidated dwelling or dwelling unit fails to comply with an order of the inspector issued under subsection (b)(1) or (2) above, and the inspector has not sought or the Commission has not adopted a resolution directing the Town attorney to seek injunctive relief as provided in subsection (c)(1) above, then the inspector shall submit to the Commission an ordinance directing the inspector to repair, vacate and close or to demolish the dwelling or dwelling unit in accordance with the provisions of this subsection.
- a. If, on the date the Commission considers such ordinance, the Commission concludes that the owner has still failed either to (i) repair, alter or improve the dwelling or dwelling unit to comply with the minimum standards of fitness established by this article, or vacate and close the dwelling or dwelling unit, or (ii) demolish or remove the dwelling or dwelling unit, the Commission may adopt an ordinance in accordance with the provisions of this subsection.
- b. The ordinance shall identify the property and the owner and shall direct the inspector to repair or vacate and close or to demolish or remove the dwelling or dwelling unit unless (i) the owner has, prior to the adoption of such ordinance, entered into an agreement with the Town (as described in subsection (c) (2) above staying enforcement of the provisions of this article, or enters such an agreement within ten days after the adoption of such ordinance. The ordinance shall further provide that the inspector shall enforce the repair, vacation and closure or demolition or removal order under the circumstances specified in subsection (c) (2) above.
- c. The Town may enter into an agreement staying the enforcement of the minimum housing code if it finds that: (i) the property owner subject to an

- enforcement proceeding under this article has obtained a building permit authorizing the work necessary to bring the dwelling or dwelling unit up to the minimum standards of fitness established by this article; (ii) the agreement includes an itemization of the work necessary to bring the dwelling or dwelling unit up to the minimum standards of fitness established by this article, as well as a timetable for the completion of each major element of the work and a completion date for all such work; (iii) the property owner has demonstrated to the reasonable satisfaction of the manager that such party has available the financial and other resources necessary to complete the work in accordance with such schedule; and (iv) the agreement is properly executed by the owner of the property that is subject to an enforcement proceeding under this article.
- d. If the inspector determines that a property owner who has entered into an agreement staying the enforcement of the minimum housing code has failed to complete at least twenty-five (25) percent of the total cost of the work described in the agreement within fifty (50) percent of the time established in the agreement for the completion of all the work, then the inspector shall so notify the property owner in writing and shall, not less than ten (10) days after the date of such notice, proceed to enforce the repair, vacate and close or demolition/removal order. If the inspector determines that the property owner has met the foregoing threshold of completion, then the repair, vacate and close or demolition/removal order shall not be enforced. However, upon expiration of the agreement, if the property owner has still not brought the dwelling or dwelling unit up to the minimum standards of fitness established by this article, then the inspector shall invoke the provisions of section 9-48 to obtain compliance with the requirements of this article, including the levying of daily civil penalties.
- e. A copy of any ordinance adopted under this section shall be recorded in the Office of the Register of Deeds of Scotland County and shall be indexed in the name of the property owner in the grantor index.
- d) *Appeals from order of inspector.* An appeal from any decision or order of the inspector may be taken by any person aggrieved thereby. Any appeal from the inspector shall be taken within ten (10) days from the rendering of the decision or service of the order and shall be taken by filing with the inspector and with the zoning Board of Adjustment a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the inspector shall forthwith transmit to the board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the inspector 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 inspector certifies to the board, after the notice of

appeal is filed with him, that by reason of the facts stated in the certificate, a copy of which shall be furnished the appellant, a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one (1) day's written notice to the inspector, by the board, or by a court of record upon petition made pursuant to G.S. section 160A-446(f) and subsection (e) of this section.

- (1) The board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the inspector, but the concurring vote of four (4) members of the board shall be necessary to reverse or modify any decision or order of the inspector. The board shall have power also in passing upon appeals, if there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
 - (2) Every decision of the board shall be subject to review by proceedings in the nature of certiorari instituted within fifteen (15) days of the decision of the board, but not otherwise.
- e) *Petition to superior court by owner.* Any person aggrieved by an order issued by the inspector or a decision rendered by the board shall have the right, within thirty (30) days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the inspector pending a final disposition of the cause, as provided by G.S. section 160A-446(f).
- f) *Enforcement proceedings prior to the date of adoption of this Code of Ordinances.* This section shall become effective upon adoption, and its provisions shall apply in full to all enforcement proceedings under the Town Code initiated after the date of adoption of this Code of Ordinances.
- (1) With respect to enforcement proceedings that have been initiated prior to the date of adoption of this Code of Ordinances but for which the Commission has not yet adopted an ordinance directing the demolition of the dwelling, the inspector shall, if an order has been issued under the existing code establishing a shorter compliance period than the sixty-day time period in the ordinance, serve an amended order that is consistent with the new time limits. Except as provided herein, the provisions of this ordinance shall apply to any such enforcement proceedings.

Complaints or orders issued by the inspector shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the inspector in the exercise of reasonable diligence, the inspector shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing the same once each week for two (2) successive weeks in a newspaper printed and published in the Town. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

SECTION 9-18. –COST OF A LIEN ON PREMISES.

As provided by G.S. section 160A-443(6), the amount of the cost of any repairs, alterations or improvements or vacating and closing or removal or demolition caused to be made or done by the inspector pursuant to section 9-43 of this article shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by article 10 of chapter 160A of the General Statutes.

SECTION 9-19. –ALTERNATIVE REMEDIES.

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the Town to define and declare nuisances and to cause their abatement by summary action or otherwise or to enforce this article by criminal process as authorized by G.S. Section 14-4 and the enforcement of any remedy provided in this article shall not prevent the enforcement of any other remedy or remedies provided in this article or in other ordinances or laws.

SECTION 9-20. –ZONING BOARD OF ADJUSTMENT TO HEAR APPEALS.

All appeals which may be taken from decisions or orders of the inspector shall be heard and determined by the Zoning Board of Adjustment. As the appeals body, the board shall have power to fix the times and places of its meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties. The board shall perform the duties prescribed and shall keep an accurate journal of all its proceedings.

SECTION 9-21. –CONFLICT WITH OTHER PROVISIONS.

If any provision, standard or requirement of this article is found to be in conflict with any provision of any other ordinance or code of the Town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the Town shall prevail.

SECTION 9-22. –VIOLATIONS AND PENALTIES.

- a) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the dwelling or dwelling unit or to vacate and close and remove or demolish the dwelling or dwelling unit, upon order of the inspector duly made and served as

provided in this article, within the time specified in such order, and each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant this article, to occupy or permit the occupancy of the dwelling or dwelling unit after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

- (b) The violation of any provision of this article shall constitute a misdemeanor, as provided by G.S. Section 14-4.
- (c) A violation of any of the provisions of this article shall also subject the offender to a civil penalty of one hundred dollars (\$100.00). As provided above civil penalties shall not be levied for any period during which an agreement staying the enforcement of the minimum housing code is in effect. However, if such agreement expires and the dwelling or dwelling unit covered by the agreement has still not been brought up to the minimum standards of fitness established by this article, then the inspector may begin imposing daily civil penalties until the dwelling or dwelling unit is brought up to the minimum standards of fitness established by this article. If the offender does not pay the civil penalty within ten (10) days after being notified of the violation and the amount of the penalty (or within ten (10) days after being notified of the daily accrual of civil penalties), then the Town may collect the amount owed to the Town in a civil action in the nature of debt.

SECTION 9-23. –APPLICABILITY TO ABANDONED STRUCTURES.

The procedures and minimum standards for the regulation of dwellings and dwelling units set out in sections 9-8 through 9-15 of this article shall apply to abandoned structures in the Town, except that abandoned structures are not required to meet minimum standards that are uniquely applicable to occupied dwellings and dwelling units, such as standards for heating systems and minimum room sizes.

SECTIONS 9-24 – 9-50. –RESERVED.

ARTICLE 2. – FAIR HOUSING STANDARDS

SECTION 9-51. –DECLARATION OF POLICY.

The policy of the Town is to ensure equal housing accommodations for sale or for rent.

State Law Reference— State Fair Housing Act, G.S. § 41A-1 et seq.

SECTION 9-52. –APPLICABILITY.

The provisions of this article relative to discrimination in housing shall apply to the sale or rental of a house to a person in a single dwelling unit and to the rental or lease of a portion of a dwelling house containing

accommodations for a family, except when the remainder of the dwelling is occupied by the owner or a member of his immediate family.

SECTION 9-53. –PROHIBITED PRACTICES ENUMERATED; EXCEPTIONS.

- (a) No owner of real property shall discriminate against any other person because of the religion, race, color, national origin, sex, age, handicap or family status of such other person, or because of religion, race, color, national origin, ancestry, sex, age, handicap or family status of the friends or associates of such other person in regard to the sale or rental of or dealings concerning real property located within the Town. Any such discrimination shall be considered an unlawful housing practice.
- (b) Nothing in this section shall require an owner to offer property to the public at large before selling or renting it, nor shall this section be deemed to prohibit owners from giving preference to prospective tenants or buyers for any reason other than religion, race, color, national origin, sex, age, handicap or family status.
- (c) Nothing in this section shall be construed to bar any religious or denominational institution or organization or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, from limiting admission to or giving preference to persons of the same religion or denomination or from making such selection as is calculated by such organization to promote the religious principles for which it has been established or maintained.

SECTION 9-54. –GRIEVANCES.

- a) Any person who contends that the provisions of this article have been violated may file a written complaint under oath with the Town Board of Commissioners, hereby designated as the officer to whom complaints shall be filed. Within ten (10) days after the complaint has been filed, the officer shall make a determination of the merits and reasonableness of the complaint and shall attempt to adjust the grievance between the parties.
- b) If the complaint or grievance is not resolved by the parties through the officer, either party to the alleged complaint or the officer may, within twelve (12) months of the alleged violation, appeal or refer the complaint or grievance to the state human relations commission (North Carolina Human Relations Commission, 121 West Jones Street, Raleigh, NC 27603-1334). Upon an appeal being properly filed, the officer shall transmit to the human relations commission all papers constituting the record of the matters.

SECTION 9-55. –INTERPRETATIONS; CONFLICTS.

- a) In interpreting and applying the provisions of this article, the purpose and spirit for which it is offered shall be of primary concern.
- b) It is not intended by this article to interfere with, abrogate, annul or circumvent the Civil Rights Acts of 1964 and 1968, the Federal Fair Housing Act (42 U.S.C.A. § 3601 et seq.), or other laws

with regard to fair housing practices. The filing of a complaint under this article will not preclude the claim from being pursued in any other court or jurisdiction. It is intended to offer reasonable persons, acting in good faith, an opportunity to resolve their differences in an atmosphere of a non-adversary proceeding.

SECTIONS 9-56. – 9-75 – RESERVED.

CHAPTER 10. – MOTOR VEHICLES AND TRAFFIC

ARTICLE 1. - GENERAL

SECTION 10-1. – DEFINITIONS.

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

Authorized emergency vehicle includes vehicles of the fire department, police vehicles and such ambulances designated or authorized by the chief of police.

Block means a portion of any street located between two (2) street intersections.

Business district means the territory contiguous to a highway when fifty (50) percent or more of frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.

Central business district means the area on Main Street at the central intersection.

Crosswalk means that portion of a roadway ordinarily included within the prolongation or connection of the lateral lines of sidewalks at intersections; any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Driver means every person who drives or is in actual physical control of a vehicle.

Intersection means the area embraced within the prolongation of the lateral curb lines or, if none, then the lateral boundary lines of two (2) or more highways which join one another at an angle, whether or not one (1) such highway crosses the other.

Motorcycle means every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor.

Motor vehicle means every vehicle which is self-propelled and every vehicle which is propelled by electric power; including golf carts but excluding tractors.

Official time standard means standard time or daylight saving time, as may be in current use in this Town, whenever certain hours are named in this chapter.

Official traffic-control devices means all signs, signals, markings and devices not inconsistent with this chapter, placed or erected by authority of the Town Board of Commissioners or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

Official traffic signal means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

Park means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

Pedestrian means any person on foot.

Police officer means every officer of the municipal police department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

Private road or driveway means every road or driveway not open to the use of the public for purposes of vehicular travel.

Public conveyance means any vehicle other than a taxicab or railroad train for transporting for fare.

Railroad means a carrier of persons or property upon cars, other than street cars, operated upon stationary rails.

Railroad train means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except street cars.

Residential district means the territory contiguous to a highway not comprising a business district when the frontage on such highway for a distance of three hundred (300) feet or more is mainly occupied by dwellings or by dwellings and buildings in use for dwelling purposes.

Right-of-way means the privilege of the immediate use of the roadway.

Roadway means that portion of a street improved, designed or ordinarily used for vehicular travel.

Safety zone means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

Sidewalk means that portion of a street between the curb lines or the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

Standing means any stopping of a vehicle, whether occupied or not.

Stop, when required, means complete cessation of movement.

Stop or stopping, when prohibited, means any stopping of a vehicle except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic-control sign or signal.

Street or highway means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purpose of vehicular traffic.

Traffic means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances, either singly or together, while using any street for purposes of travel.

Traffic signs means authorized signs or markers which are assumed to be permanently or temporarily placed or erected or installed at certain places and which purport to give notice of direction or to convey a prohibition or warning. The presence of such signs, though not compulsory, is generally dictated by necessity or common sense, with a view to furtherance of public safety.

Truck means any vehicle with an axle load limit in excess of thirteen thousand (13,000) pounds.

Vehicle means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks. For the purpose of this chapter, a bicycle, golf cart or a ridden animal shall be deemed a vehicle.

SECTION 10-2. – COMPLIANCE WITH ORDER OR DIRECTION OF THE POLICE.

No person shall willfully fail or refuse to comply with any lawful order or direction by a police officer given in the performance of duties or the exercise of powers prescribed by this Chapter.
(1949 Ordinance, Chapter G)

SECTION 10-3. – AUTHORITY OF POLICE TO DIRECT TRAFFIC.

In a fire or other emergency or when necessary to expedite traffic or safeguard pedestrians, police officers may direct traffic as conditions may require, notwithstanding the provisions of this chapter.

SECTION 10-4. – APPLICABILITY TO DRIVERS OF GOVERNMENT VEHICLES.

The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of the United States Government, this state, county or Town, and it shall be unlawful for any such driver to violate any of the provisions of this chapter, except as otherwise permitted in this chapter or by state law.

State Law Reference— *Similar state law, G.S. § 20-168.*

SECTION 10-5. – APPLICABILITY TO PERSONS PROPELLING PUSHCARTS OR RIDING BICYCLES OR ANIMALS.

Every person propelling any pushcart or riding a bicycle or an animal upon a roadway and every person driving any animal-drawn vehicle shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which, by their very nature, can have no application.

State Law Reference— Similar state law, G.S. § 20-171.; (1949 Ordinance, Chapter G)

SECTION 10-6. – AUTHORIZED EMERGENCY VEHICLES.

(a) The provisions of this chapter regulating the operation, parking and standing of vehicles shall apply to authorized emergency vehicles, except that a driver when operating such vehicle in any emergency, unless otherwise directed by a police officer, may:

- (1) Park or stand, notwithstanding the provisions of this chapter;
- (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
- (3) Exceed the prima facie speed limits, so long as he does not endanger life or property;
- (4) Disregard regulations governing direction of movement or turning in specified directions, so long as he does not endanger life or property.

(c) The exemptions in subsection (a) of this section shall not, however, protect the driver of any such vehicle from the consequences of his reckless disregard of the safety of others.

SECTION 10-7. – RIGHTS OF OWNER OF PROPERTY USED FOR VEHICULAR TRAFFIC.

Nothing in this chapter shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel, by permission of the owner and not as a matter of right, from prohibiting such use nor from requiring other or different or additional conditions than those specified in this chapter or otherwise regulating such use as may seem best to such owner.

State Law Reference— Similar state law, G.S. § 20-170.

SECTION 10-8. – RIDING ON PORTION OF VEHICLE NOT INTENDED FOR PASSENGERS.

- (a) No person shall ride any portion of a vehicle not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in spaces intended for merchandise.
- (b) The operator of a motorcycle or bicycle when upon a street, shall not carry any person upon the handlebar, frame or tank of any such vehicle, nor shall any person so ride upon any such vehicle.

SECTION 10-9. –NUMBER OF PASSENGERS IN FRONT SEAT RESTRICTED.

It shall be unlawful for the driver or the person in charge of any motor vehicle to permit more than three (3) persons, including the driver, to ride in the front or driver's seat of a motor vehicle.

SECTION 10-10. – PASSENGERS TO REMAIN INSIDE VEHICLE.

No person shall allow any part of his body to protrude beyond the limits of the vehicle in which he is riding, except to give such signals as are required by this chapter, and no person shall hang on to any vehicle whatsoever.

SECTION 10-11. – ENTERING OR RIDING VEHICLE WITHOUT CONSENT OF OWNER OR DRIVER.

No person shall enter, jump on or ride any vehicle without the consent of the owner or driver.

SECTION 10-12. – BOARDING OR JUMPING FROM MOVING VEHICLES.

No person shall board or alight from any vehicle while such vehicle is in motion.

SECTION 10-13. – CLINGING TO A MOVING VEHICLE.

Any person riding upon any bicycle, motorcycle, coaster, sled, roller skates or any other toy vehicle shall not attach the same or himself to any public conveyance or moving vehicle upon any roadway.

SECTION 10-14. – RIDING BICYCLES ON SIDEWALK OR WALKWAY OF THE BUSINESS DISTRICT.

No person shall ride a bicycle upon any sidewalk or walkway within a business district in the Town.

SECTION 10-15. – RIDERS OF MOTORCYCLES TO HAVE HANDS ON HANDLEBARS.

No person shall ride a motorcycle on any street without having his hands upon the handlebars.

SECTION 10-16. – USE OF SKATES, COASTERS, SKATEBOARDS, ETC.

No person upon roller skates or riding in or by means of any coaster, toy vehicle or similar device shall go upon any roadway, except while crossing a street at a crosswalk or intersection and except upon streets set aside as play streets.

SECTION 10-17. – FAILURE TO OBEY A CITATION.

It shall be unlawful for any person to violate his written promise to appear that is given to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which such citation was originally issued.

SECTIONS 10-18. – 10-35. – RESERVED.

ARTICLE 2. – OPERATION OF VEHICLES

SECTION 10-36. – DRIVING ON RIGHT HALF OF STREET.

Upon all streets of sufficient width, except upon one-way streets, the driver of a vehicle shall drive the vehicle upon the right half of the street and shall drive a slow-moving vehicle as closely as possible to the right-hand edge or curb of such street, unless it is impracticable to travel on such side of the street and except when overtaking and passing another vehicle subject to the limitations applicable in overtaking and passing.

State Law Reference— Similar provisions, G.S. § 20-146.

SECTION 10-37. – CROSSING AN INTERSECTION OR RAILROAD.

In crossing an intersection of streets or the intersection of a street by a railroad right-of-way, the driver of a vehicle shall at all times cause such vehicle to travel on the right half of the street, unless such right half is obstructed or impassable.

State Law Reference— Similar provisions, G.S. § 20-147.

SECTION 10-38. – PASSING A VEHICLE PROCEEDING IN THE OPPOSITE DIRECTION.

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, each giving to the other at least one-half of the main-traveled portion of the roadway as nearly as possible.

State Law Reference— Similar state law, G.S. § 20-148.

SECTION 10-39. – PASSING A VEHICLE PROCEEDING IN THE SAME DIRECTION.

- (a) The driver of any vehicle overtaking another vehicle proceeding in the same direction shall pass at least two (2) feet to the left thereof and shall not again drive to the right side of the street or highway until safely clear of such overtaken vehicle.
- (b) The driver of a vehicle shall not drive to the left side of the center of a street or highway in overtaking and passing another vehicle proceeding in the same direction, unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety.
- (c) The driver of a vehicle shall not overtake and pass another vehicle proceeding in the same direction upon the crest of a grade or upon a curve in the street or highway where the driver's view is obstructed within a distance of five hundred (500) feet.
- (d) The driver of a vehicle shall not overtake and pass any other vehicle proceeding in the same direction at any railway grade crossing nor at any intersection, unless permitted so to do by a traffic or police officer.

State Law Reference— Similar provisions, G.S. §§ 20-149, 20-150.

SECTION 10-40. – RIGHT OF WAY.

- (a) When two (2) vehicles, at approximately the same time, approach or enter an intersection at which traffic is not controlled by an official traffic-control device, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right, except as otherwise provided in this chapter.
- (b) The driver of a vehicle approaching but not having entered an intersection shall yield the right-of-way to a vehicle already within such intersection, whether the vehicle in the intersection is proceeding straight ahead or turning in either direction. However, this subsection shall not be interpreted as giving the right-of-way to a vehicle already in an intersection when such vehicle is turning either to the right or left, unless the driver of such vehicle has given a plainly visible signal of intention to turn as required.
- (c) The driver of any vehicle approaching but not having entered a traffic circle shall yield the right-of-way to a vehicle already within such traffic circle.

State Law Reference— Similar provisions, G.S. § 20-155.

SECTION 10-41. – EXCEPTIONS TO THE RIGHT OF WAY RULE.

- (a) The driver of a vehicle entering a public street or highway from a private road or drive shall yield the right-of-way to all vehicles approaching on such public street or highway.
- (b) The driver of a vehicle upon a street or highway shall yield the right-of-way to police and fire department vehicles and public and private ambulances when the latter are operated upon official business and the drivers thereof sound audible signal by bell, siren or exhaust whistle. This subsection shall not operate to relieve the driver of a police or fire department vehicle or public or private ambulance from the duty to drive with due regard for the safety of all persons using the street or highway, nor shall it protect the driver of any such vehicle from the consequence of any arbitrary exercise of such right-of-way.

State Law Reference— Similar provisions, G.S. § 20-156.

SECTION 10-42. – METHOD FOR TURNING AT INTERSECTIONS.

- (a) Except as otherwise provided in this section, the driver of a vehicle intending to turn to the right at an intersection shall approach such intersection in the lane for traffic nearest to the right-hand side of the street and, in turning, shall keep as closely as practicable to the right-hand curb or edge of the street. The driver of a vehicle intending to turn to the left shall approach such intersection in the lane for traffic to the right of and nearest to the center of the street and, in turning, shall pass beyond the center of the intersection, passing as closely as practicable to the right thereof before turning such vehicle to the left. When a vehicle is being operated on a three-lane street, the driver thereof intending to turn to the left at an intersection shall approach the intersection in the lane nearest to

- the center of the street and designated for use by vehicles traveling in the same direction as the vehicle about to turn.
- (b) For the purpose of this section, the center of the intersection shall mean the meeting point of the medial lines of the streets intersecting one another.
- (c) The Town Board of Commissioners may modify the foregoing method of turning at intersections by clearly indicating, by buttons, markers or other direction signs within an intersection installed or erected in the course to be followed by vehicles turning thereat, and it shall be unlawful for any driver to fail to turn in accord with such indications.

State Law Reference— Similar provisions, G.S. § 20-153.

SECTION 10-43. – SIGNALS FOR STOPPING, STARTING OR TURNING.

- (a) The driver of a vehicle upon a street, before starting, stopping or turning from a direct line, shall first see that such movement can be made in safety and, if any pedestrian may be affected by such movement, shall give a clearly audible signal by sounding the horn and, whenever the operation of any other vehicle may be affected by such movement, shall give a signal plainly visible to the driver of such other vehicle of the intention to make such movement. The signal indicating the driver's intention to stop or turn shall be maintained or given continuously for the last one hundred (100) feet traveled prior to stopping or making a turn.
- (b) The signal required by subsection (a) of this section shall be given by means of the hand and arm or by any mechanical or electrical signal device approved by the state department of motor vehicles, except that when a vehicle is so constructed or loaded as to prevent the hand and arm signal from being visible both to the front and rear, the signal shall be given by a device of a type which has been approved by such department, and any motor vehicle in use on a street shall be equipped with and the required signal shall be given by such signal device when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such vehicle exceeds twenty-four (24) inches or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen (14) feet. The latter measurement shall apply to any single vehicle, also to any combination of vehicles, except combinations operated by farmers in hauling farm products. Also, the required signal shall be given by such a device if the motor vehicle has a right-hand drive or is equipped with the steering mechanism on the right-hand side thereof.

State Law Reference— Similar provisions, G.S. § 20-154.

SECTION 10-44. – METHOD OF GIVING SIGNAL WITH HAND OR ARM.

Whenever the signal is given by hand and arm, the driver shall indicate his intention to start, stop or turn by extending the hand and arm from and beyond the left side of the vehicle as follows:

Left turn. Hand and arm horizontal, forefinger pointing.

Right turn. Hand and arm pointed upward.

Stop. Hand and arm pointed downward.

State Law Reference— Similar provisions, G.S. § 20-154.

SECTION 10-45. – CORNER-CUTTING.

It shall be unlawful for any person to drive any motor vehicle upon or across any sidewalk, driveway, filling station or other commercial driveway or other similar surface located at the corner of any intersection protected by a traffic light or other traffic signal or sign for the purpose of evading the regulations governing the turning of motor vehicles at intersections.

SECTION 10-46. – FOLLOWING TOO CLOSELY.

The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, with regard for the safety of others and due regard to the speed of such vehicle and the traffic upon and condition of the highway.

State Law Reference— Similar provisions, G.S. § 20-152.

SECTION 10-47. – PROCEDURE UPON APPROACH OF POLICE OR OTHER EMERGENCY VEHICLE.

Upon the approach of any police or fire department vehicle giving audible signal by bell, siren or exhaust whistle, the driver of every other vehicle shall immediately drive the vehicle to a position as near as possible and parallel to the right-hand edge or curb, clear of any intersection, and shall stop and remain in such position, unless otherwise directed by a police or traffic officer, until the police or fire department vehicle shall have passed.

State Law Reference— Similar provisions, G.S. § 20-157(a).

SECTION 10-48. – FOLLOWING FIRE APPARATUS OR DRIVING NEAR THE SCENE OF A FIRE.

It shall be unlawful for the driver of any vehicle other than one on official business to follow any fire apparatus traveling in response to a fire alarm closer than one (1) block or to drive within one (1) block where fire apparatus has stopped in answer to a fire alarm.

State Law Reference— Similar provisions, G.S. § 20-157(b).

SECTION 10-49. – DRIVING OVER FIRE HOSE OF BLOCKING FIRE APPARATUS.

It shall be unlawful for any person to drive a vehicle over a fire hose or any other equipment that is being used at a fire at any time or to block a firefighting apparatus or any other equipment from its source of supply, regardless of its distance from the fire.

State Law Reference— Similar provisions, G.S. § 20-157(d).

SECTION 10-50. – DRIVING ON ROADWAYS LANED FOR TRAFFIC.

All vehicles operated on any roadway which has been clearly marked with lanes for traffic shall be driven as nearly as practical entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

SECTION 10-51. – OBEDIENCE TO TRAFFIC MARKINGS.

- (a) All vehicles operated on any street, highway or roadway within the Town or any portion thereof which has been clearly marked with traffic lanes shall be operated within the lane designated by a straight arrow if no turn is to be made and if a right or left turn is to be made shall be operated within the lane marked by an arrow indicating a right or left turn.
- (b) No vehicle shall make any turn at any intersection from any marked traffic lane unless an arrow in such lane indicates that such a turn may be made.

SECTION 10-52. – BLOCKING INTERSECTIONS OR CROSSWALKS.

No driver of a vehicle shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

SECTION 10-53. – DRIVING ON SIDEWALK AREA.

The driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.

State Law Reference— Driving motor vehicle on sidewalk prohibited, G.S. § 20-160.

SECTION 10-54. – DRIVING THROUGH A FUNERAL PROCESSION.

No vehicle shall be driven through a funeral procession, except fire department vehicles, police patrols and ambulances responding to calls.

SECTION 10-55. – LIMITATION ON BACKING.

The driver of a vehicle shall not back it into any intersection or over a crosswalk nor shall he back it otherwise unless such movement can be made in safety and unless ample warning has been given by hand and horn or other signals.

SECTION 10-56. – DRIVING AN OVERCROWDED OR OVERLOADED VEHICLE.

No person shall operate upon a street or highway a motor vehicle which is so loaded or crowded with passengers or property or both as to obstruct the operator's view of the street or highway, including intersections, or so as to impair or otherwise restrict the proper operation of the vehicle.

State Law Reference— Similar provisions, G.S. § 20-140.2.

SECTION 10-57. – VEHICLES LOADED WITH LOGS-LOGS TO BE FASTENED.

Every truck, trailer or other vehicle which shall be loaded with logs and which shall be driven upon the streets, alleys and other public ways of the Town shall have such logs well and securely chained or fastened thereon.

SECTION 10-58. –PARKING OF VEHICLES LOADED WITH LOGS.

It shall be unlawful for any person operating any truck, trailer or other vehicle which shall be loaded with logs to park or stand such vehicle upon any portion of any street in the Town's business district.

SECTIONS 10-59 – 10-75. –RESERVED.

ARTICLE 3. – TRAFFIC CONTROL DEVICES

SECTION 10-76. – OBEDIENCE TO DEVICES.

It shall be unlawful for any person to drive, operate or use a vehicle upon the streets of the Town contrary to any signs, signals or other traffic-control devices that are placed upon the streets for the purpose of directing traffic, except upon direction of a police officer and except as otherwise provided in this chapter.

SECTION 10-77. – MOVING OR DAMAGING DEVICES.

It shall be unlawful for any person to move, deface or otherwise damage any sign, signal or other traffic-control device placed upon the streets of the Town.

SECTION 10-78. – RATIFICATION OF EXISTING DEVICES.

All traffic-control signs, signals, devices and markings placed or erected in the Town prior to the adoption of this Code and in use for the purpose of regulating, warning or guiding traffic are hereby affirmed, ratified and declared to be official traffic-control devices, provided such traffic-control devices are not inconsistent with the provisions of this chapter or state law.

SECTION 10-79. – TRAFFIC CONTROL SIGNAL LEGEND.

Whenever traffic is controlled by traffic-control signals exhibiting the words "Go," "Caution" or "Stop" or exhibiting differently colored lights, successively, one (1) at a time, the following colors only shall be used, and such terms and lights shall indicate as follows:

(1) *Green alone or "Go."*

- a. Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn, but vehicular traffic shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection at the time such signal is exhibited.
- b. Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) *Yellow alone or "Caution," when shown following the green or "Go" signal.*

- a. Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection, but if such stop cannot be made in safety, a vehicle may be driven cautiously through the intersection.

- b. Pedestrians facing such signal are thereby advised that there is insufficient time to cross a roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(3) *Red alone or "Stop."*

- a. Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection or at such other point as may be indicated by a clearly visible line and shall remain standing until green or "Go" is shown alone.
- b. No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(4) *Red with green arrow.*

- a. Vehicular traffic facing such signal may cautiously enter the intersection, only to continue movement in the direction indicated by such arrow, but shall not interfere with other traffic.
- b. No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

SECTION 10-80. – FLASHING SIGNALS.

Whenever flashing red or yellow signals are used, they shall require obedience by vehicular traffic as follows:

- (a) *Flashing red (stop signal).* When a red lens is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.
- (b) *Flashing yellow (caution signal).* When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

SECTION 10-81. – STOP INTERSECTIONS.

When stop signs are placed, erected or installed upon streets intersecting a through street designated as provided in section 10.82 at the entrance thereto or at the entrance to any intersection or at any stop intersection so designated, every driver of a vehicle shall stop in obedience to such signs before entering the intersection and shall not proceed into or across such intersection until he has first determined that no conflict with traffic will be involved.

State Law Reference— Authority of Town to designate stop intersections, G.S. § 20-158.

SECTION 10-82. – YIELD INTERSECTIONS.

Whenever main-traveled or through streets are designated by erecting, at the entrance thereto from intersecting streets, signs notifying drivers of vehicles to yield the right-of-way to drivers of vehicles approaching the intersection on the main-traveled or through street, it shall be unlawful for the driver of any vehicle to enter or cross such main-traveled or through street, unless he shall first slow down and yield the right-of-way to any vehicle in movement on the main-traveled or through street which is approaching so as to arrive at the intersection at approximately the same time as the vehicle entering the main-traveled or through street. No failure to so yield the right-of-way shall be considered negligence or contributory negligence per se in any action at law for injury to person or property, but the facts relating to such failure to yield the right-of-way may be considered with the other facts in the case in determining whether either party in such action was guilty of negligence or contributory negligence.

State Law Reference— Similar provisions, G.S. § 20-158.1.

SECTION 10-83. – DRIVING ON ONE-WAY STREETS.

Upon those streets and parts of streets designated as one-way streets vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

State Law Reference— Authority of Town to prohibit other than one-way traffic, G.S. § 20-169.

SECTION 10-84. – LIMITATIONS ON TURNING AROUND.

No driver shall turn any vehicle and proceed in the opposite direction within a business district, unless a sign indicating that the same may be done is erected.

SECTION 10-85. – TRUCK ROUTES.

- (a) No person may drive or operate any truck upon any street or highway within the Town, other than state-maintained roads (specifically NC 71), unless the point of origin or destination for such truck lies on such road or use of such non-state-maintained road is necessary to travel between a state-maintained road and a point of origin or destination of such truck.
- (b) Pursuant to the traffic engineer, with approval of the Town Board of Commissioners, may designate certain sections of state-maintained highways and streets within the Town as truck routes. The engineer shall request the state department of transportation to post and maintain appropriate signs designating such truck routes and directing all trucks to use the designated routes.

State Law Reference— Size, equipment of vehicles, G.S. § 20-116.

SECTION 10-86. – DRIVING THROUGH SAFETY ZONES.

The driver of a vehicle shall not at any time drive through or over a safety zone marked, signed and designated.

State Law Reference— Similar provisions, G.S. § 20-160.

SECTION 10-87. –DRIVING IN SCHOOLS ZONES.

Whenever authorized signs are placed designating any street or part thereof as a school zone drivers of vehicles using such street shall exercise the greatest care for the protection of children.

SECTION 10-88. – DRIVING IN QUIET ZONES.

Whenever authorized signs are placed, erected or installed as a quiet zone, no person operating a motor vehicle within any such zone shall sound the horn or other warning device of such vehicle, except in an emergency.

SECTION 10-89. – DRIVING ON PLAY STREETS.

Whenever authorized signs are placed designating any street or part thereof as a play street no person shall drive a vehicle upon any such designated street, except persons who have business or who reside within the designated area, and all such persons shall exercise the greatest care when driving upon any play street.

SECTION 10-90 - 10-110 – RESERVED.

ARTICLE 4. –SPEED REGULATIONS

SECTION 10-111. – MAXIMUM LIMITS GENERALLY.

- (a) No person shall drive a vehicle on a street or highway within the Town at a speed greater than is reasonable and prudent under the conditions then existing.
- (b) Except as otherwise provided in this chapter, it shall be unlawful to operate a vehicle in excess of the following speeds:
 - (1) Thirty-five (35) miles per hour in any business district;
 - (2) Thirty-five (35) miles per hour in any residential district;
 - (3) Forty-five (45) miles per hour in places other than those named in paragraphs (1) and (2) of this subsection for:
 - a. All vehicles other than passenger cars, regular passenger vehicles, pickup trucks of less than one (1) ton capacity and school buses loaded with children; and
 - b. All vehicles of whatever kind which are engaged in towing, drawing or pushing another vehicle, provided this subparagraph shall not apply to vehicles engaged in towing, drawing or pushing trailers with a gross weight of not more than three thousand (3,000) pounds;
 - (4) Fifty-five (55) miles per hour in places other than those named in paragraphs (1) and (2) of this subsection for passenger cars, regular passenger-carrying vehicles and pickup trucks of less than one (1) ton capacity.
 - (5) Speeds for roads owned and maintained by the North Carolina Department of Transportation (NCDOT) with the Town shall have speeds governed by the NCDOT.
- (c) The fact that the speed of a vehicle is lower than the limits provided in this section shall not relieve the driver from the duty to decrease speed when approaching and crossing an intersection, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway or when special hazards exist with respect to pedestrians or other traffic or by reasons of weather or street conditions. Speed shall be decreased as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the street or highway and to avoid causing injury to any person or property, either on or off the street or highway, in compliance with legal requirements and the duty of all persons to use due care.

State Law Reference— Similar provisions, G.S. § 20-141.

SECTION 10-112. – VARIATION OF MAXIMUM LIMITS.

The Town Board of Commissioners may alter the maximum speed limits as established on any street or portion thereof which is not a part of the state highway system and which is not maintained by the state highway commission in accordance with the provisions of G.S. section 20-141(e); provided, however, that no such alteration shall be less than twenty-five (25) miles per hour. No such alteration of the speed limits shall become or remain effective unless signs have been conspicuously placed giving notice of such speed limit for such street.

SECTION 10-113. – SCHOOL ZONES.

- (a) It shall be unlawful for any person to operate or drive any vehicle at a speed greater than twenty-five (25) miles per hour in any school zone during a period of time of thirty (30) minutes prior to and thirty (30) minutes following the times when such school begins and ends its daily schedule.
- (b) For the purposes of this section, a school zone shall be deemed to be that portion of any street abutting any school property for a distance not to exceed five hundred (500) feet on either side of such school property.

State Law Reference— Speed in school zones, G.S. § 20-141.1.

SECTION 10-114. – EXEMPTIONS.

The speed limitations set forth in this article shall not apply to vehicles when operated with due regard for safety under the direction of the police in the chase or apprehension of violators of the law or of persons charged with or suspected of any such violation, to fire department or fire patrol vehicles when traveling in response to a fire alarm, to public or private ambulances when traveling in emergencies nor to vehicles operated by the duly authorized officers, agents and employees of the North Carolina Utilities Commission when traveling in performance of their duties in regulating and checking the traffic and speed of buses, trucks, motor vehicles and motor vehicle carriers subject to the regulations and jurisdiction of the North Carolina Utilities Commission. This exemption shall not, however, protect the driver of any such vehicle from the consequence of a reckless disregard of the safety of others.

State Law Reference— Similar provisions, G.S. § 20-145.

SECTIONS 10-115. – 10-135. – RESERVED.**ARTICLE 5. –PEDESTRIANS****SECTION 10-136. – APPLICABILITY.**

Pedestrians shall be subject to traffic-control signals at intersections, as provided in this chapter, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this article.

State Law Reference— Similar provisions, G.S. § 20-172.

SECTION 10-137. – RIGHT-OF-WAY AT CROSSWALKS.

- (a) Where traffic-control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection, except as otherwise provided in this article.
- (b) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

State Law Reference— Similar provisions, G.S. § 20-173.

SECTION 10-138. – CROSSING AT OTHER THAN A CROSSWALK.

- (a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.
- (b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.
- (c) Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

State Law Reference— Similar provisions, G.S. § 20-174.

SECTION 10-139. – SOLICITING RIDES.

No person shall stand in the traveled portion of a street or highway for the purpose of soliciting a ride from the driver of any private vehicle.

State Law Reference— Similar provisions, G.S. § 20-175.

SECTION 10-140. – BLIND PEDESTRIANS.

- (a) At any street, road or highway crossing or intersection where the movement of traffic is not regulated by a traffic officer or by traffic-control signals, any blind or partially blind pedestrian shall be entitled to the right-of-way at such crossing or intersection if such blind or partially blind pedestrian shall extend before him, at arm's length, a cane white in color or white tipped with red or if such person is accompanied by a guide dog. Upon receiving such a signal, all vehicles at or approaching such intersection or crossing shall come to a full stop, leaving a clear lane through which such pedestrian may pass, and such vehicle shall remain stationary until such blind or partially blind pedestrian has completed the passage of such crossing or intersection. At any street, road or highway crossing or intersection where the movement of traffic is regulated by

traffic-control signals, a blind or partially blind pedestrian shall be entitled to the right-of-way if such person having such cane or accompanied by a guide dog shall be partly across such crossing or intersection at the time the traffic-control signals change, and all vehicles shall stop and remain stationary until such pedestrian has completed passage across the intersection or crossing.

- (b) Nothing contained in this section shall be construed to deprive any blind or partially blind person not carrying a cane white in color or white tipped with red or being accompanied by a guide dog of any of the rights and privileges conferred by law upon pedestrians crossing streets and highways, nor shall the failure of such blind or partially blind person to carry a cane white in color or white tipped with red or to be accompanied by a guide dog upon the streets, roads, highways or sidewalks be held to constitute or be evidence of contributory negligence by virtue of this section.

State Law Reference— Similar provisions, G.S. §§ 20-175.2, 20-175.3.

SECTION 10-141. – DUTY OF DRIVERS.

Notwithstanding the provisions of this article, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precautions upon observing any child or any confused or incapacitated person upon a roadway.

State Law Reference— Similar provisions, G.S. § 20-174.

SECTION 10-142. – 10-150. – RESERVED.

ARTICLE 6. –BICYCLES

SECTION 10-151. – APPLICABILITY OF TRAFFIC REGULATIONS.

Any person operating a bicycle shall be required to observe traffic regulations and traffic-control signals in the same manner as required of motor vehicles and shall also be required to have such bicycle under complete control before entering any arterial highway within the Town.

State Law Reference— North Carolina Bicycle and Bikeway Act of 1974, G.S. § 136-71.6 et seq.

SECTION 10-152. – IMPOUNDMENT FOR VIOLATION.

Any bicycle operated by the owner or other person lawfully in the custody thereof in violation of any of the provisions of this article may be taken into custody and impounded for a period of not exceeding thirty (30) days.

SECTION 10-153. – USE AFTER DARK.

It shall be unlawful for any person to operate a bicycle after dark on any street, alley or highway of the Town unless the bicycle is equipped with a lighted lamp on the front thereof, visible under normal atmospheric conditions from a distance of at least three hundred (300) feet in front of such bicycle and equipped with a reflex mirror or lamp on the rear exhibiting a red light visible under like conditions from a distance of at least two hundred (200) feet to the rear of such bicycle.

State Law Reference— Lights and lighting equipment, G.S. § 20-129(e).

SECTION 10-154. – 10-160. – RESERVED.

ARTICLE 7. –RAILROADS

SECTION 10-161. – 162. RESERVED.**SECTION 10-163. – STOPPING FOR SIGNAL.**

Whenever any person driving a vehicle approaches a railroad track crossing any street, alley or other public way in the Town and a clearly visible and positive signal gives warning of the immediate approach of a railroad train, car or other similar equipment, it shall be unlawful for the driver of the vehicle to fail to bring the vehicle to a complete stop before traversing such grade crossing.

State Law Reference— Vehicles must stop at certain railway crossings, G.S. § 20-143.

SECTION 10-164. – 180. RESERVED

CHAPTER 11. - MUNICIPAL UTILITIES:

Water and Sewer

ARTICLE 1. - GENERAL

SECTION 11-1. – DEFINITIONS.

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

Improved Property: Property on which a structure is located.

Improved Street: Any street having a wearing surface of concrete, asphalt, brick, stone brick, or tar treatment of similar hard material.

Lateral: A pipe connecting a sanitary sewer, water main or other utility main with the line of adjacent property of extending from the main to the inside of the curb.

Multi-User: Any use where there is more than one structure on a single meter or where there is one structure containing multiple residential (dwelling) units such as hotels, motels and condominiums.

Person: Any person, firm or corporation.

Sewer: Sanitary sewer.

Single-User: Any use on a single meter not included in the multi-user definition above.

Structure: By way of illustration and not by way of limitation, any dwelling cottage, dwelling house, apartment house, hotel, motel, house trailer, mobile home, commercial building, office building, rooming house, or any unit in a group housing development, planned unit development, townhouse, condominium development, motorized home, self-contained travel trailer, travel trailer, or other structure.

Sub divider: Any person, firm or corporation who subdivides or develops any land within the Town's designated zoning jurisdiction, including the extraterritorial jurisdiction. For the purposes of this chapter, a sub divider may or may not be the owner of the property in question, but is responsible for its development in accordance with the other regulations of the Town.

Unimproved Street: Any street having a dirt surface.

Utility System or Utility: Any water, sewer or other utility system owned or operated by the Town.

SECTION 11-2. – PURPOSE.

The purpose of this chapter is to provide a set of standard procedures for the normal operation of the Town water treatment and distribution system and wastewater collection and treatment system.

SECTION 11-3. – AUTHORITY.

The Town has the authority to own and operate a drinking water and/or a wastewater (sewer) system under the North Carolina General Statutes.

State Law Reference: *Public Enterprises, G.S. § 160A – 311.*

SECTION 11-4. – WHEN COMMON METERS PERMITTED.

Except as hereinafter provided in this Chapter, each separate structure within the Town shall be required to have an individual water meter and sewer service connection. A common water connection, sewer connection and/or meter will be permitted to serve more than one building of the following categories:

- (a) Unit ownership (condominium developments); and
- (b) Hotels and motels.

Provided, when real property is or becomes separately owned within any of the categories listed above, a common meter shall be permitted only when the separate owners of the real estate designate in writing a single person or entity to be responsible for payment of all water and sewer charges. This designation must be on file with the Town.

SECTION 11-5. – APPLICATION REQUIRED.

Any person desiring water or sewer utility service furnished by the Town shall make application to the Town. Such application shall contain the applicant's name, owner's name if different from the applicant, applicant and owner contact information, physical location of the unit to be served, the uses for which the utility is desired and any other information deemed necessary by the Town. This requirement shall apply to all new accounts established after the date of adoption of this ordinance.

SECTION 11-6. – CONNECTION REQUIRED.

When improved property is located within the Town limits and upon or within a distance of 200 feet from any water line or sewer collection line deemed adequate and appropriate by the Town to provide such service, the owner or owners of the improved property are required to connect to Town service within six (6) months of notice given. The owners shall be charged for the connection and shall pay for the connection in full at the time of application.

If any provision of this section conflicts with previous ordinances included in this chapter, this section shall be paramount.

Provided further that:

- (a) Any residential dwelling or business abandoning use of a septic tank within the Town of Wagram and requesting connection to the Town's sewer system shall be required, within six (6) months of connection, to remove all matter from the tank, collapse the tank (or remove in its entirety), fill

the area with soil and compact. A sewer tap fee and any other applicable fee must be paid before said connection is made.

- (b) Any residential dwelling or business abandoning use of a well within the Town of Wagram and requesting connection to the Town's water system will be required to pay a water tap fee before said connection is made.

State Law Reference: Power to require connections, G. S. § 160A-317.

SECTION 11-7.—TAMPERING, DAMAGE AND UNLAWFUL CONNECTIONS.

It shall be unlawful for any person, except authorized persons, to:

- (a) Cut, break, obstruct, damage, change, alter or otherwise interfere or tamper with in any manner, any buildings, wells, reservoirs, pipes, main, hydrant, water tank or connections or any other thing being a part of the waterworks, sewer or other utility system of the Town;
- (b) Make any connection to the Town's utility systems, except as provided for, or to knowingly permit same to be done on their premises or premises in their possession or control as agent to knowingly use water from such unauthorized connection;
- (c) As an authorized consumer, supply water to other persons or to carry water from any authorized connection, or from any hydrant, watering trough or public fountain without the consent of the Town.

SECTION 11-8. – UNLAWFUL USE.

No person, other than employees of the Town, shall be authorized to connect, turn on, turn off or disconnect water or sewer service provided by the Town or remove, replace or repair any equipment connected to these utility services. It shall be unlawful for any person to resell to others water or wastewater services except by express authorization by the Town.

State Law Reference: *Injury to water supply misdemeanor, G.S. 143-152.*

SECTION 11-9. – PENALTY FOR DAMAGING OR TAMPERING.

If a water meter or line is found to have been damaged or tampered with, service will be disconnected and will not be reinstated until all damage and tampering charges, which shall be established by the Town Board of Commissioners as part of the *Schedule of Rates and Fees* each year, have been paid in full along with any delinquent bill. Repeated instances of damage to meters or lines will be referred to the Town Attorney and legal action pursued by the Town.

State Law Reference. *Interfering with gas, electric or water meters – G.S. § 14.151.1*

SECTIONS 11-10 – 11-15. - RESERVED

ARTICLE 2. – EXTENSION OF WATER OR SEWER OUTSIDE OF TOWN

SECTION 11-16. – GENERAL.

The policy of the Town regarding furnishing water and sewer outside the corporate limits of the Town is as follows.

- a) The Town will extend its water and sewer lines in appropriate size to its corporate limits.
- b) The person desiring extension of the Town's water and sewer lines outside of the Town shall be known as the "Extender". The Extender shall cause to be prepared plans and specifications for the extension of the Town's water and sewer mains to and within the Extender's property and same shall be approved by the Town, its engineer and the appropriate state regulatory agencies. The work shall be performed to the approval of a NC Licensed Professional Engineer paid by the Extender and overseeing the Extender's project, who shall present to the Town of Wagram and the appropriate state regulatory agencies a Certificate of Completion along with "as-built" plans and specifications of the work.
- c) The Extender shall furnish all materials and fittings and shall perform all labor to construct water and sanitary sewer mains, service laterals and meter setters on portions of his or her property in accordance with the approved locations, plans and specifications. All meters shall be furnished and installed by the Town.
- d) Water and sewer tapping fees and service lateral charges shall be collected by the Town in accordance with its standard charges for service connections between water and sanitary sewer mains and structures along the utility mains for each structure served.
- e) Water and sewer services will be supplied to structures in accordance with the Town's rules, regulations, and rate schedules applicable to its out-of-town service and in effect at the time of application for service, subject to charges as may be made by the Town Board of Commissioners. The plumbing code, and other applicable codes in effect in the Town from time to time, shall apply to all plumbing installed in structures on the Extender's property and between meters and the structures.
- f) Commencement of water and sewer service by the Town through any water or sewer mains and any extensions made thereto, shall result in all mains and meters becoming the sole property of the Town who will repair, maintain, and service all facilities.
- (g) The Extender shall agree for himself or herself and all his or her heirs, personal representatives, and assigns, that the Town shall have the right, in its discretion, to extend its corporate limits to include any portion or all of the land in which the Town is furnishing water and sanitary sewer to the extent and in a manner provided by law.

- (h) It shall be understood with the Extender and his or her heirs, personal representatives, and assigns, or, in the event the Extender is a corporation, with its successors and assigns, that in no event shall the Town be subject to any liability whatsoever as a result of the water and sewer services rendered or the failure for any reason to render the services.
- (i) The Town reserves the right to refuse to extend its water and sewer lines beyond its corporate limits.

SECTIONS 11-17. – 11-20. - RESERVED

ARTICLE 3. – RATES AND CHARGES

SECTION 11-21. – GENERAL.

The following shall be the policies and rules of the Town of Wagram regarding rates and charges for water and sewer services provided by the Town.

State Law Reference – Authority to fix and enforce rates, G.S. § 160A-314.

(1949 Ordinance, Chapter H)

SECTION 11-22. – SCHEDULE OF RATES AND FEES.

From time to time, the Town Board of Commissioners shall adopt and place into effect a *Schedule of Rates and Fees* covering the water and wastewater utilities of the Town. Such schedule may be included as part of the annual budget ordinance.

SECTION 11-23. – DEPOSIT REQUIRED.

A deposit shall be required for all accounts established with the Town of Wagram for water or sewer service. Deposits are required to ensure the payment of water and sewer bills due and to secure the Town against loss. The policy for deposits shall be as follows:

- a) A separate deposit shall be required for each meter installed.
- b) The deposit amount for residential customers will be established as part of the Schedule of Rates and Fees.
- c) The deposit amount for non-residential customers will be established as part of the Schedule of Rates and Fees.
- d) The amount shall remain on deposit with the Town of Wagram as a guarantee for payment of water and sewer usage. When separating from the Town, the Town shall apply the deposit against the amount due on the customer's final bill.
- e) The deposit shall be made in the name of the account holder.

- f) The monthly statement for water and sewer service shall be mailed to the account holder and that person shall be responsible for payment of all water and/or sewer statements in accordance with G.S. 160A-314(c).
- g) The Town reserves the right to hold any deposit until all bills and penalties have been paid. When closing an account, the Town reserves the right to hold any deposit until the account has been audited.
- h) All security deposits are non-interest bearing.

State Law Reference: *Enforcement of utility charges, see G.S. § 160A-314.*

SECTION 11-24. – WATER AND SEWER TAP-ON FEES.

Water and sewer tap-on fees, unless exempted by this Chapter, shall be paid prior to using the Town's services. These fees, as established from time to time by the Town Board of Commissioners, shall be based on the number of structures served by the connection.

State Law Reference: *Connection charges, see G.S. § 160A-317*

SECTION 11-25. – NO TRANSFER OF ACCOUNTS PERMITTED

No transfer of accounts shall be permitted. The current account holder must closeout the account and the new account holder must open a new account for service.

SECTION 11-26. – 11-30. – RESERVED.

ARTICLE 4. – BILLING AND PAYMENTS

SECTION 11-31. – GENERAL.

When a water meter is installed by the Town, the customer will, from the date of the installation of the meter, be billed for water and sewer in accordance with the Town's current rates. All customers shall be billed monthly by the Town for water and sewer services according to the *Schedule of Rates and Fees* fixed from time to time by the Town Board of Commissioners.

Statutory reference: *Authority to fix and enforce rates, see G.S. § 160A-314.*

(1949 Ordinance, Chapter H)

SECTION 11-32. – BILLING CYCLE AND FEES.

The Town of Wagram has established a cycle for reading of meters, preparation and mailing of the bills and times at which the billing is due and payable to the Town, and at which late charges and penalties shall be assessed.

- a) All bills for water and sewer utility service furnished by the Town shall be due and payable by the 10th of every month. If payment is not received at the Town Hall by 5:00 P.M. on the 20th then a

\$10.00 service charge (late fee) is added to the bill. If no payment is received at the Town Hall by 5:00 P.M. on the 10th of the following month, service will be disconnected. A \$10.00 disconnection fee will be automatically applied. A \$35.00 reconnection fee will also be applied to the outstanding bill. No second notices are sent.

- b) Water cut-offs are made between 8:30 A.M. on Monday through 3:00 P.M. except on Fridays when the time shall be 8:30 A.M. until 12:00 P.M.. No cut-offs are made from 12:01 P.M. Friday through 8:29 A.M. Monday or during legal holidays observed by the Town. If service is improperly reconnected by someone other than Town personnel, then the meter will be removed and a \$50.00 re-install charge is added to any outstanding charges.
- c) Failure to receive bills or notices does not prevent such bills from becoming delinquent, nor relieve the account holder from payment.
- d) Any account holder with a delinquent account may not open a new account at another location until the delinquent account has been satisfied. If the amount in arrears is significant, a payment plan may be established. Failure to honor the terms of the payment plan and/or failure to keep the new account current will result in termination of service.

SECTION 11-33. – ADJUSTMENT OF CHARGES.

The Town Board of Commissioners shall, in its discretion, adjust water and sewer bills and, in adjusting same, the following formula shall be used: The entire water bill shall be paid, plus the amount of the sewer charges for the corresponding period for the previous year.

SECTION 11-34. – ADVANCE PAYMENTS.

A water customer can pay his or her water and sewer bill in advance by making a deposit with the Town, to be applied against his or her bills until the deposit is exhausted or by the Town drafting on the customer's account.

SECTION 11-35. – FORM OF PAYMENT.

The Town of Wagram will accept payment for utility services in the form of cash, check, or money order.

SECTION 11-36. – PENALTY FOR WORTHLESS CHECKS.

The following provisions apply for worthless checks:

- a) In the case where a water and/or sewer customer gives the Town two checks which cannot be honored upon presentation (Non-Sufficient Funds – NSF), the Town will not accept any further personal checks from the customer and will require the customer to pay with cash, certified check, cashier's check or money order;
- b) If the bill is delinquent for which the NSF check has been submitted, service will be discontinued immediately without further notice;
- c) Personal checks will not be accepted from a customer whose services have been discontinued for non-payment.

SECTION 11-37. – 11-40. – RESERVED.

ARTICLE 5. – DISCONNECTION AND RECONNECTION OF UTILITY SERVICE

SECTION 11.41 – GENERAL.

It is the policy of the Town of Wagram, before disconnecting a utility service, to give the customer a fair opportunity to avoid disconnection either by paying charges due or showing that the charges are in error. Under this policy, the customer has the right to request adjustments to his or her billing only one time per calendar year and only with acceptable proof.

- a) Service disconnections will be made between the hours of 8:30 a.m. and 3:00 p.m. on business days from Monday through Thursday. Friday hours shall be 8:30 A.M. through 12:00 P.M.. Customers will be subject to a service fee for disconnection of the water service as soon as a Town employee is dispatched to make the disconnection.
- b) Customers who have paid in full the past amounts due including any late charges and penalties are eligible to have the water service reconnected. Customers will be subject to a reconnection fee which shall be established in the *Schedule or Rates and Fees*. The Town shall reestablish water service as soon as possible after receipt of the payment.

State Law Reference: G.S. 160A-314(b).
(1949 Ordinance, Chapter H)

SECTION 11.42 – CUSTOMER REQUEST TO TURN WATER ON OR OFF.

There will be a service charge for turning the water on or off at the request of the customer. Such charge shall be included in the *Schedule of Rates and Fees*.

SECTION 11.43. – 11.50. – RESERVED.

ARTICLE 6. – IRRIGATION WATER METERS

SECTION 11-51. – GENERAL.

The following policies shall apply to irrigation meters.

- a) Any water and sewer customer of the Town may request and have an irrigation water meter installed.
- b) The connection fee shall be the same charge applicable to water customers of the Town.
- c) A back-flow prevention device shall be installed and the customer shall be charged the cost of purchasing and installing the device.
- d) Irrigation water meter customers shall be billed monthly in accordance with the *Schedule of Rates and Fees*.

- e) The Town reserves the right to draw water from faucets located inside and outside any structure located on property utilizing an irrigation water meter to facilitate usage checks and to ensure that no water is allowed to drain into the Town's sewer system
- f) No customer utilizing an irrigation water meter shall intentionally allow water pumped through the meter to enter the Town's sewer system.

SECTION 11-52. – 11-55. – RESERVED.

ARTICLE 7. – RIGHT TO SUSPEND SERVICE

SECTION 11-56. – GENERAL.

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

- a) To prevent fraud or abuse;
- b) Owner/customer's willful disregard of the Town's rules and regulations;
- c) Making of connection to the system or emergency repairs to municipal property;
- d) Circumstances beyond the Town's control;
- e) Legal process;
- f) Direction of public authorities having jurisdiction over such matters; and
- g) Strike, riot, fire, flood, accident or any unavoidable cause.

SECTION 11-57. – 11-60. – RESERVED.

ARTICLE 8. – WATER SHORTAGE RESPONSE PLAN

SECTION 11-61. – SCOPE AND INTENT.

- (a) The following measures in this water response plan (WSRP) shall be enforced by the Town Director of Public Works or his designee upon the determination of a water shortage. All municipalities, water corporations, or water authorities purchasing water from the Town will adopt and enforce this WSRP as a condition of water sales agreements. Upon the declaration of a water shortage, all such entities will enforce the appropriate water use restrictions or percent reduction goals for each phase of response to a water shortage.
- (b) Generally, the Director of Public Works shall issue a water shortage advisory (initiating voluntary phase of reductions of water usage), water shortage alert (initiating mandatory phase of restrictions of water usage), or water shortage emergency declaration (initiating emergency phase of restrictions, bans, or rationing of water usage). Depending on the specific water shortage occurrence, the issuance of advisories, alerts, or emergency declarations may be system-wide or limited to portions of the water system affected by the specific occurrence.

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- (c) Water shortage advisories, alerts, or emergency declarations may be issued for a variety of reasons. They include, but are not limited to, the following:
- (1) Contamination of well(s), raw water main(s), or potable water main(s);
 - (2) Drought conditions;
 - (3) Break in a potable water main that supplies a significant portion of the water system;
 - (4) Removal of elevated or other storage tanks for extended maintenance;
 - (5) Equipment malfunction or failure, removal of wells from service, or other occurrences significantly affecting the town's capability of delivering raw water or adequately treating the raw water;
 - (6) Power failure significantly affecting the town's capability of delivering raw water or adequately treating the raw water.
- (d) Guidelines to be used to assess the need for advisories, alerts, or emergency declarations include, but are not limited to, the following:
- (1) *Voluntary phase:*
 - a. Wells are operating in excess of twelve (12) hours daily to supply the system demand;
 - b. One (1) of the wells has been removed from service for any reason, or the pumping capacity of a majority of the wells has been significantly diminished for an extended period;
 - c. Power failure, affecting the water treatment plant or a significant portion of the wells, which Director of Public Works has estimated will last more than 24 hours;
 - d. Contamination of or breaks in potable water mains, extended maintenance or repair, or other occurrences requiring more than a few days or extraordinary means to satisfactorily resolve.
 - (2) *Mandatory phase:*
 - a. Voluntary phase measures and reductions have not achieved the desired goals, drawdown levels continue to increase, and pumping capacity continues to diminish;
 - b. One (1) of the wells have been removed from service for any reason, or the pumping capacity of a majority of the wells has been significantly diminished for an extended period.
 - (3) *Emergency phase:*

- a. Voluntary or mandatory phase measures and reductions have not achieved the desired goals, drawdown levels continue to increase, and well capacity continues to diminish;
 - b. All of the wells have been removed from service for any reason, or the pumping capacity of a majority of the wells has been significantly diminished for an extended period, or the Town has had to purchase water from an alternate source;
 - c. Extended power failure that cannot be adequately addressed with available stationary or portable standby generators.
- (e) For the purposes of this section, "extended period" shall mean thirty (30) days. The Director of Public Works shall make the determination of whether or not pumping capacity has been "significantly diminished" based on available pump or well design information, flow monitoring data, and operating drawdown levels.

SECTION 11-62. – EDUCATION AND OUTREACH PROGRAM

The Town shall encourage year-round efficient use of potable water by all customers. The Director of Public Works shall carefully monitor demand and supply and determine average daily demand as a percent of available supply, keeping an eye on regional water supply by checking on the North Carolina Drought Monitor.

SECTION 11-63. – WATER USE CLASSIFICATIONS.

- (a) *Class 1: Essential Water Uses.* The following water uses have been determined to be essential uses of potable water provided by the Town of Wagram in the event of a water shortage:
- (1) Domestic use for drinking, personal hygiene, and sanitation;
 - (2) Patient care/rehabilitative services;
 - (3) Uses to sustain human life and the lives of domestic pets;
 - (4) Firefighting, fire department drills and testing;
 - (5) Flushing fire hydrants and public sewers as necessary to ensure public health and safety.
- (b) *Class 2: Socially/economically important water uses.* The following water uses have been determined to be socially or economically important uses of potable water provided by the town in the event of a water shortage:
- (1) Domestic use for laundry, cooking, and house cleaning;
 - (2) Industrial use to maintain jobs;
 - (3) Outdoor commercial watering (public or private) using conservation measures;

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- (4) Irrigation for commercial vegetable gardens and fruit orchards or the maintenance of livestock;
 - (5) Watering of trees where necessary for preservation;
 - (6) Watering by commercial nurseries at a minimum level necessary to maintain stock;
 - (7) Use of fresh water at a minimum rate necessary to establish vegetation following earth-moving, where such vegetation is required by law or regulation;
 - (8) Commercial car and truck washes;
 - (9) Commercial laundromats;
 - (10) Restaurants and clubs;
 - (11) Home vegetable gardens;
 - (12) Convenience stores, gas stations, and other commercial establishments;
 - (13) Schools and churches;
 - (14) Hotels, motels, and inns;
 - (15) Commercial air conditioning.

(c)*Class 3: Non-essential water uses.* The following water uses have been determined to be non-essential uses of potable water provided by the Town in the event of a water shortage.

- (1) Fountains, reflecting pools, and artificial waterfalls;
- (2) Gardens, lawns, parks, golf courses (except greens), playing fields and other recreational areas;
- (3) Water hoses or sprinklers for recreational purposes;
- (4) Non-commercial washing of motor vehicles;
- (5) Serving water in restaurants, clubs, or eating places except by specific request;
- (6) Watering of inedible plants except as specified in Class 2;
- (7) Filling and operation of residential swimming pools.

SECTION 11-64. – CONSERVATION MEASURES AND WATER USE RESTRICTIONS.

- (a) *Voluntary phase: water use reduction:*
- (1) Review WSRP and modify as necessary;
 - (2) Issue water shortage advisory and increase conservation educational campaign;
 - (3) Ten (10) percent potable water use reduction goal (system-wide);
 - (4) Encourage continued voluntary conservation;
 - (5) Monitor compliance with voluntary water use;
 - (6) Explore alternatives for supplementing water supply.
- (b) *Mandatory phase: water use restrictions:*
- (1) Issue a water shortage alert.
 - (2) Twenty (20) percent potable water use reduction goal (system-wide);
 - (3) Encourage water use reduction for Class 2 and 3 uses;
 - (4) Restrict irrigation of outdoor landscaping, including grass, shrubbery, trees, and flowers:
 - a. Irrigation shall be limited to the hours of 7:00 p.m. to 7:00 a.m.;
 - b. For customers whose address numbers end in an even digit, such watering shall be restricted to watering on Tuesday, Thursday, and Saturday;
 - c. For customers whose address numbers end in an odd digit, such watering shall be restricted to watering on Wednesday, Friday, or Sunday;
 - d. No irrigation shall take place on Monday or in the daylight hours of any day between 7:00 a.m. and 7:00 p.m.;
 - e. Exceptions to these restrictions may be granted temporarily to persons engaged in the business of landscaping on a site by site basis for one (1) to three (3) days, by permit issued by the town manager.
 - (5) Monitor compliance with water use restrictions and increase restrictions as necessary;
 - (6) Fine enforcement.

- (c) *Emergency phase: water use restrictions, bans, or rationing:*
 - (1) Issue a water shortage emergency declaration;
 - (2) Thirty (30) percent potable water use reduction goal (system-wide);
 - (3) Ban all Class 3 uses;
 - (4) Ban or restrict Class 2 uses;
 - (5) Aggressive compliance monitoring and enforcement;
 - (6) Implement specific restrictions, bans, or rationing measures on industrial water customers.

SECTION 11-65. – ENFORCEMENT.

- (c) For violations of the restrictions implemented during the mandatory or emergency phases of a water shortage, the following civil penalties are imposed:

First offense: \$50.00 fine
Second offense: \$100.00 fine
Third and succeeding offenses: \$350.00 fine
- (d) The town may disconnect the water service of any user determined to be responsible for persistent violations.

SECTION 11-66. – 11-70. – RESERVED.

ARTICLE 9. – SEWER USE ORDINANCE

SECTION 11-71. – PURPOSE AND POLICY.

This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection system for the Town of Wagram hereafter referred to as the Town, and enables the Town to comply with all applicable State and Federal laws, including, the Clean Water Act (33 United States Code §1251 *et seq.*) and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this ordinance are:

- (a) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge; and
- (b) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the State or otherwise be incompatible with the system; and
- (c) To promote reuse and recycling of industrial wastewater and sludge from the municipal system; and

- (d) To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public; and
- (e) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and
- (f) To ensure that the municipality complies with its NPDES or Non-discharge Permit conditions, sludge use and disposal requirements and any other Federal or State laws to which the municipal wastewater system is subject.

This ordinance provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This ordinance shall apply to all users of the municipal wastewater system, as authorized by N.C.G.S. 160A-312. The Town shall designate an administrator of the Publicly Owned Treatment Works or POTW and pretreatment program hereafter referred to as the Director of Treatment Plants. Except as otherwise provided herein, the Director of Treatment Plants shall administer, implement and enforce the provisions of this ordinance. Any powers granted to or imposed upon the Director of Treatment Plants may be delegated by the Director of Treatment Plants to other Town personnel.

By discharging wastewater into the Town wastewater system, industrial users located outside the Town limits agree to comply with the terms and conditions established in this Ordinance, as well as any permits, enforcement actions, or orders issued hereunder.

SECTION 11-72. – DEFINITIONS AND ABBREVIATIONS.

- (a) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated:
 - (1) Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251, et seq.
 - (2) Approval Authority. The Director of the Division of Water Resources of the North Carolina Department of Environment and Natural Resources or his designee.
 - (3) Authorized Representative of the Industrial User.
 - (i) If the industrial user is a corporation, authorized representative shall mean:
 - (A) the president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
 - B) the manager of one or more manufacturing, production, or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations and initiate and direct comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (ii) If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.
 - (iii) If the industrial user is a Federal, State or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 - (iv) The individuals described in paragraphs i-iii above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Town.
 - v) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to Director of Treatment Plants prior to or together with any reports to be signed by an authorized representative.
- (4) Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g. mg/l).
 - (5) Building Sewer. A sewer conveying wastewater from the premises of a user to the POTW.
 - (6) Bypass. The intentional diversion of waste streams from any portion of a user's treatment facility.
 - (7) Categorical Standards. National Categorical Pretreatment Standards or Pretreatment Standard.
 - (8) Control Authority. Refers to the POTW organization if the POTW organization's Pretreatment Program approval has not been withdrawn.
 - (9) Director of Treatment Plants. The chief administrative officer of the Control Authority or his/her delegate.
 - (10) Environmental Protection Agency, or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.
 - (11) Grab Sample. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.
 - (12) Holding Tank Waste. Any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
 - (13) Indirect Discharge or Discharge. The discharge or the introduction from any nondomestic source regulated under section 307(b), (c), or (d) of the Act, (33 U.S.C. 1317), into the POTW.
 - (14) Industrial User or User. Any person which is a source of indirect discharge.
 - (15) Interference. The inhibition, or disruption of the POTW collection system, treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to violation of any requirement of the Control Authority's (and/or POTW's, if different from the Control Authority) NPDES, collection system, or Non-discharge Permit or prevents sewage sludge use or disposal in compliance with specified applicable State and Federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act, (33 U.S.C.

1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA)(42 U.S.C. §6901, *et seq.*), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

- (16) Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (17) National Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. §1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.
- (18) National Prohibitive Discharge Standard or Prohibitive Discharge Standard. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in **Section 11.73** of this ordinance and are developed under the authority of 307(b) of the Act and 40 CFR, section 403.5.
- (19) New Source.
 - (1) Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with section 307(c), provided that:
 - (A) the building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (B) the building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (C) the production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
 - (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of **Section 11.72(B)** or **(C)** above but otherwise alters, replaces, or adds to existing process or production equipment.
 - (3) For purposes of this definition, construction of a new source has commenced if the owner or operator has:
 - (A) Begun, or caused to begin, as part of a continuous on-site construction program:
 - 1. Any placement, assembly, or installation of facilities or equipment;
or
 - 2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

- (B) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.
- (20) Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (21) National Pollution Discharge Elimination System, or NPDES, Permit. A permit issued pursuant to section 402 of the Act (33 U.S.C. §1342), or pursuant to N.C.G.S. 143-215.1 by the State under delegation from EPA.
- (22) Non-discharge Permit. A permit issued by the State pursuant to G.S. 143-215.1(d) for a waste which is not discharged directly to surface waters of the State or for a wastewater treatment works which does not discharge directly to surface waters of the State.
- (23) Pass Through. A discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the Control Authority's NPDES, collection system, Non-discharge Permit, or a downstream water quality standard even if not included in the permit.
- (24) Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local government entities.
- (25) pH. A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
- (26) Pollutant. Any "waste" as defined in N.C.G.S. 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, and odor).
- (27) POTW Treatment Plant. That portion of the POTW designed to provide treatment to wastewater.
- (28) Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW collection system and/or treatment plant. The reduction or alteration may be obtained by physical, chemical, or biological processes, or process changes or other means, except as prohibited by 40 CFR Part 403.6(d).
- (29) Pretreatment Program. The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the Town in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by N.C.G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.
- (30) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.
- (31) Pretreatment Standard. Any prohibited discharge standard, categorical standard, or local limit which applies to an industrial user.
- (32) Publicly Owned Treatment Works (POTW) or Municipal Wastewater System. A treatment works as defined by section 212 of the Act, (33 U.S.C. §1292) which is owned

in this instance by the Town. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the Town who are, by contract or agreement with the Town, or in any other way, users of the POTW of the Town.

- (33) Severe Property Damage. Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (34) Significant Industrial User or SIU. An industrial user that discharges wastewater into a publicly owned treatment works and that:
- (A) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewaters); or
 - (B) contributes process wastewater which makes up five percent or more of the NPDES or Non-discharge permitted flow limit or organic capacity of the POTW treatment plant. In this context, organic capacity refers to BOD, TSS, and Ammonia; or
 - (C) is subject to Categorical Pretreatment Standards under 40 CFR Part 403.6 and 40 CFR chapter I, Subchapter N, Parts 405-471; or
 - (D) is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation, or for violating any Pretreatment Standard or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for limiting the POTW's sludge disposal options.
 - (E) Subject to Division approval under 15A NCAC 02H .0907(b), the Control Authority may determine that an Industrial User meeting the criteria in paragraphs (A) and (B) above has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, [or for contributing to violations of the POTW's receiving stream standard,] or for limiting the POTW's sludge disposal options, and thus is not a Significant Industrial User.
 - (F) Subject to Division approval under 15A NCAC 02H .0907(b), the Control Authority may determine that an Industrial User meeting the criteria in paragraph (C) above meets the requirements of 40 CFR Part 403.3(v)(2) and thus is a Non-Significant Categorical Industrial Use
 - (G) Subject to Division approval under 15A NCAC 02H .0907(b), the Control Authority may determine that an Industrial User meeting the criteria in paragraph (C) above meets the requirements of 40 CFR Part 403.12(e)(3) and thus is a Middle Tier Significant Industrial User. Sampling and inspection requirements may be cut in half as per 40 CFR Parts 403.8 (f)(2)(v)(C).and 403.12 (e)(3).
- (35) Significant Noncompliance or SNC is the status of noncompliance of a Significant Industrial User when one or more of the following criteria are met. Additionally, any

Industrial User which meets the criteria in Subparagraph (a)(35), Parts (C), (D), or (H) shall also be SNC.

- (A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all the measurements taken for the same pollutant parameter (not including flow) during a six month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l);
 - (B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l) multiplied by the applicable TRC; (TRC = 1.4 for BOD, TSS, fats, oil and grease, 1.2 for all other pollutants (except flow and pH);
 - (C) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Control Authority and/or POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
 - (D) Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has resulted in either the Control Authority's or the POTW's, if different from the Control Authority, exercise of its emergency authority under 40 CFR Part 403.8(f)(1)(vi)(B) and **Section 11.106(e)** of this SUO to halt or prevent such a discharge;
 - (E) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
 - (F) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 30 days from the due date.
 - (G) Failure to accurately report noncompliance.
 - (H) Any other violation or group of violations that the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.
- (36) Slug Load or Discharge. Any discharge at a flow rate or concentration which has a reasonable potential to cause Interference or Pass-Through, or in any other way violates the POTW's regulations, local limits, or Industrial User Permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that

can cause a violation of the prohibited discharge standards in **Section 11.73** of this ordinance.

- (37) Standard Industrial Classification (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.
- (38) Storm Water. Any flow occurring during or following any form of natural precipitation and resulting there from.
- (39) Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.
- (40) Upset. An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (41) Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.
- (42) Wastewater Permit. As set forth in section 11.2 of this ordinance.
- (43) Waters of the State. All streams, rivers, brooks, swamps, sounds, tidal estuaries, bays, creeks, lakes, waterways, reservoirs and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.
- (b) This ordinance is gender neutral and the masculine gender shall include the feminine and vice-versa.
- (c) Shall is mandatory; may is permissive or discretionary.
- (d) The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.
- (e) The following abbreviations when used in this ordinance, shall have the designated meanings:

(1)	BOD	Biochemical Oxygen Demand
(2)	CFR	Code of Federal Regulations
(3)	COD	Chemical Oxygen Demand
(4)	EPA	Environmental Protection Agency
(5)	gpd	Gallons per day
(6)	l	Liter
(7)	mg	Milligrams
(8)	mg/l	Milligrams per liter
(9)	N.C.G.S.	North Carolina General Statutes
(10)	NPDES	National Pollution Discharge Elimination System
(11)	O & M	Operation and Maintenance
(12)	POTW	Publicly Owned Treatment Works
(13)	RCRA	Resource Conservation and Recovery Act
(14)	SIC	Standard Industrial Classification
(15)	SWDA	Solid Waste Disposal Act
(16)	TSS	Total Suspended Solids
(17)	TKN	Total Kjeldahl Nitrogen
(18)	U.S.C	United States Code.

SECTION 11-73. – PROHIBITED DISCHARGE STANDARDS.

- (a) General Prohibitions. No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any National, State, or local pretreatment standards or requirements.
- (b) Specific Prohibitions. No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:
 - (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.
 - (2) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one half inch (1/2") in any dimension.
 - (3) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
 - (4) Any wastewater having a pH less than 5.0 or more than 9.5 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.
 - (5) Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc.) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.
 - (6) Any wastewater having a temperature greater than 150° F (66° C), or which will inhibit biological activity in the POTW treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C).
 - (7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
 - (8) Any trucked or hauled pollutants, except at discharge points designated by the Director of Treatment Plants.
 - (9) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
 - (10) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.
 - (11) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.
 - (12) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the Director of Treatment Plants in compliance with applicable State or Federal regulations.
 - (13) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling

water and unpolluted industrial wastewater, unless specifically authorized by the Director of Treatment Plants.

- (14) Fats, oils, or greases in accordance with Section 2.10 of this ordinance.
- (15) Any sludges, screenings or other residues from the pretreatment of industrial wastes.
- (16) Any medical wastes, except as specifically authorized by the Director of Treatment Plants in a wastewater discharge permit.
- (17) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.
- (18) Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the Director of Treatment Plants.
- (19) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 2B .0200.
- (20) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
- (21) Recognizable portions of the human or animal anatomy.
- (22) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.
- (23) At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter.

Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the municipal wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.

When the Director of Treatment Plants determines that a user(s) is contributing to the POTW, any of the above enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass through, the Director of Treatment Plants shall:

- 1) Advise the user(s) of the potential impact of the contribution on the POTW in accordance with Section 11.106; and
- 2) Take appropriate actions **for** such user to protect the POTW from interference or pass through.

SECTION 11-74. – NATIONAL CATEGORICAL PRETREATMENT STANDARDS.

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

- (a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director of Treatment Plants may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (b) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Director of Treatment Plants shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).
- (c) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- (d) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

- (e) A user may request a removal credit adjustment to a categorical standard in accordance with 40 CFR 403.7.

SECTION 11-75. – LOCAL LIMITS.

An industrial waste survey is required prior to a User discharging wastewater containing in excess of the following average discharge limits.

BOD	250	mg/l	
TSS	250	mg/l	
NH ₃	25	mg/l	
Arsenic	0.003	mg/l	
Cadmium	0.003	mg/l	
Chromium	0.05	mg/l	(total chromium)
Copper	0.061	mg/l	
Cyanide	0.015	mg/l	
Lead	0.049	mg/l	
Mercury	0.0003	mg/l	
Nickel	0.021	mg/l	
Silver	0.005	mg/l	
Zinc	0.175	mg/l	

Industrial Waste Survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading are not exceeded for particular pollutants of concern. User-specific local limits for appropriate pollutants of concern shall be included in wastewater permits. The Director of Treatment Plants may impose mass based limits in addition to, or in place of concentration based limits.

SECTION 11-76. – STATE REQUIREMENTS.

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

SECTION 11-77. – RIGHT OF REVISION.

The Town reserves the right to establish limitations and requirements which are more stringent than those required by either State or Federal regulation if deemed necessary to comply with the objectives presented in this ordinance or the general and specific prohibitions of this ordinance, as is allowed by 40 CFR 403.4.

SECTION 11-78. – DILUTION.

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National

categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the Town or State.

SECTION 11-79. – PRETREATMENT OF WASTEWATER.

(a) Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and wastewater permits issued this ordinance and shall achieve compliance with all National categorical pretreatment standards, local limits, and the prohibitions set out in this ordinance within the time limitations as specified by EPA, the State, or the Director of Treatment Plants, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Town for review, and shall be approved by the Director of Treatment Plants before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Town under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the Director of Treatment Plants prior to the user's initiation of the changes.

(b) Additional Pretreatment Measures

- (1) Whenever deemed necessary, the Director of Treatment Plants may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.
- (2) The Director of Treatment Plants may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- (3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Director of Treatment Plants, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Director of Treatment Plants and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.
- (4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

SECTION 11-80. – ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS.

- (a) The Director of Treatment Plants shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges. All SIUs must be evaluated within one year of being designated an SIU. The Director of Treatment Plants may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the Director of Treatment Plants may develop such a plan for any user.

- (b) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load.
- (c) An accidental discharge/slug control plan shall address, at a minimum, the following:
 - (1) Description of discharge practices, including non-routine batch discharges;
 - (2) Description of stored chemicals;
 - (3) Procedures for immediately notifying the Director of Treatment Plants of any accidental or slug discharge, as required by this ordinance; and
 - (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

SECTION 11-81. – HAULED WASTEWATER.

- (a) Septic tank waste may be introduced into the POTW only at locations designated by the Director of Treatment Plants, and at such times as are established by the Director of Treatment Plants. Such waste shall not violate this ordinance or any other requirements established by the Town. The Director of Treatment Plants may require septic tank waste haulers to obtain wastewater discharge permits.
- (b) The Director of Treatment Plants shall require haulers of industrial waste to obtain wastewater discharge permits. The Director of Treatment Plants may require generators of hauled industrial waste to obtain wastewater discharge permits. The Director of Treatment Plants also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.
- (c) Industrial waste haulers may discharge loads only at locations designated by the Director of Treatment Plants. No load may be discharged without prior consent of the Director of Treatment Plants. The Director of Treatment Plants may collect samples of each hauled load to ensure compliance with applicable standards. The Director of Treatment Plants may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

SECTION 11-82. – PURPOSE OF FEES.

It is the purpose of this chapter to provide for the recovery of costs from users of the wastewater disposal system of the Town for the implementation of the program established herein. The applicable charges or fees shall be set forth in a schedule of sewer use charges and fees by the Director of Treatment Plants and approved by the Town Board of Commissioners. A copy of these charges and fees will be made available from the Director of Treatment Plants.

SECTION 11-83. – USER CHARGES.

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

- (a) The user charge shall reflect, at least, the cost of debt service, operation and maintenance (including replacement) of the POTW.
- (b) Each user shall pay its proportionate cost based on volume of flow.
- (c) The Clerk of the Town shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the Town Board of Commissioners for adjustments in the schedule of charges and fees as necessary.
- (d) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

SECTION 11-84. – SURCHARGES.

The amount of the surcharges will be based upon the volume of flow and the character and concentration of the constituents of the wastewater:

- (a) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:
 - (1) Metered water consumption as shown in the records of meter readings maintained by the Town; or
 - (2) If required by the Town or at the individual discharger's option, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the Town. The metering system shall be installed and maintained at the user's expense according to arrangements that may be made with the Town.
 - (3) Where any user procures all or part of his or her water supply from sources other than the Town, the user shall install and maintain at his or her own expense a flow measuring device of a type approved by the Town.
- (b) The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the Town. Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR Part 136.
- (c) The determination of the character and concentration of the constituents of the wastewater discharge by the Director of Treatment Plants or his duly appointed representatives shall be binding as a basis for charges.

SECTION 11-85. – PRETREATMENT PROGRAM ADMINISTRATION CHARGES.

The schedule of charges and fees adopted by the Town may include charges and fees for:

- (a) reimbursement of costs of setting up and operating the Pretreatment Program;
- (b) monitoring, inspections and surveillance procedures;
- (c) reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;
- (d) permitting;
- (e) other fees as the Town may deem necessary to carry out the requirements of the Pretreatment Program.

SECTION 11-86. – WASTEWATER DISCHARGE PERMIT APPLICATION AND ISSUANCE; WASTEWATER DISCHARGERS.

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the Town. When requested by the Director of Treatment Plants, a user must submit information on the nature

and characteristics of its wastewater within [thirty (30)] days of the request. The Director of Treatment Plants is authorized to prepare a form for this purpose and may periodically require users to update this information.

SECTION 11-87. – SAME; WASTEWATER PERMITS.

All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the Director of Treatment Plants to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the Director of Treatment Plant's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the Director of Treatment Plants be required to obtain a wastewater discharge permit for non-significant industrial users.

(a) Significant Industrial User Determination

All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the Director of Treatment Plants a significant industrial user determination. If the Director of Treatment Plants determines or suspects that the proposed discharge fits the significant industrial user criteria he will require that a significant industrial user permit application be filed.

(b) Significant Industrial User Permit Application

Users required to obtain a significant industrial user permit shall complete and file with the Town, an application in the form prescribed by the Director of Treatment Plants, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the Director of Treatment Plant's determination in **Section 11.87(a)** above. The application shall include at a minimum:

- (A) name of industrial user;
- (B) address of industrial user;
- (C) standard industrial classification (SIC) code(s) or expected classification and industrial user category;
- (D) wastewater flow;
- (E) types and concentrations (or mass) of pollutants contained in the discharge;
- (F) major products manufactured or services supplied;
- (G) description of existing on-site pretreatment facilities and practices;
- (H) locations of discharge points;
- (I) raw materials used or stored at the site;
- (J) flow diagram or sewer map for the industrial user;
- (K) number of employees;
- (L) operation and production schedules; and
- (M) description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g);

(c) Application Signatories and Certification

All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the Control Authority and/or Municipality as defined in Section 11.72 (a)(3) and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and

belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

(d) **Application Review and Evaluation**

The Director of Treatment Plants will evaluate the data furnished by the user and may require additional information.

- (1) The Director of Treatment Plants is authorized to accept applications for the Town and shall refer all applications to the POTW staff for review and evaluation.
- (2) Within **30** days of receipt the Director of Treatment Plants shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.

(e) **Tentative Determination and Draft Permit**

- (1) The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.
- (2) If the staff's tentative determination in Paragraph (1) above is to issue the permit, the following additional determinations shall be made in writing:
 - (A) proposed discharge limitations for those pollutants proposed to be limited;
 - (B) a proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
 - (C) a brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
- (3) The staff shall organize the determinations made pursuant to Paragraphs (1) and (2) above and the general permit conditions of the Town into a significant industrial user permit.

(f) **Permit supporting documentation.** The Control Authority staff shall prepare the following documents for all Significant Industrial User permits.

- (1) An allocation table (AT) listing permit information for all Significant Industrial Users, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with Division approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the Division. The AT shall be updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised.
- (2) The basis, or rationale, for the pretreatment limitations, including the following:
 - (A) documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and
 - (B) documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2).

(g) **Final Action on Significant Industrial User Permit Applications**

- (1) The Director of Treatment Plants shall take final action on all applications not later than 90 days following receipt of a complete application.
- (2) The Director of Treatment Plants is authorized to:
 - (A) issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this ordinance and N.C.G.S. 143-215.1;

- (B) issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;
 - (C) modify any permit upon not less than 60 days notice and pursuant to subsection (h) below this ordinance;
 - (D) revoke any permit pursuant to Section 11.106 of this ordinance;
 - (E) suspend a permit pursuant to Section 11.106 of this Ordinance;
 - (F) deny a permit application when in the opinion of the Director of Treatment Plants such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.
- (h) Permit Modification
- (1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
 - (A) changes in the ownership of the discharge when no other change in the permit is indicated,
 - (B) a single modification of any compliance schedule not in excess of four months,
 - (C) modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.
 - (2) Within 9 months of the promulgation of a National categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required, the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable National categorical pretreatment standard.
 - (3) A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. 143-215.1(b) for modifications.
- (i) Permit Conditions
- (1) The Director of Treatment Plants shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this ordinance and N.C.G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the following:
 - (A) a statement of duration (in no case more than five years);
 - (B) a statement of non-transferability;
 - (C) applicable effluent limits based on categorical standards or local limits or both;
 - (D) applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law;
 - (E) requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in Section 11.72;
 - (F) requirements to implement a Plan or other controls for prevention of accidental discharges and/or slug loads as defined in Section 11.72, if determined by the **Director of Treatment Plants** to be necessary for the User and,

- (G) requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in Section 11.72. Also see Sections 11.91 and 11.92;
 - (H) a statement of applicable civil and/or criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.
- (2) In addition, permits may contain, but are not limited to, the following:
- (A) Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.
 - (B) Limits on the instantaneous, daily and/or monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
 - (C) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
 - (D) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.
 - (E) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
 - (F) Requirements for installation and maintenance of inspection and sampling facilities and equipment.
 - (G) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
 - (H) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within thirty (30) days where self-monitoring indicates a violation(s).
 - (I) Compliance schedules for meeting pretreatment standards and requirements.
 - (J) Requirements for submission of periodic self-monitoring or special notification reports.
 - (K) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in **Section 11.100** and affording the Director of Treatment Plants, or his representatives, access thereto.
 - (L) Requirements for prior notification and approval by the Director of Treatment Plants of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.
 - (M) Requirements for the prior notification and approval by the Director of Treatment Plants of any change in the manufacturing and/or pretreatment process used by the permittee.
 - (N) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the terms of the permit.
 - (O) Other conditions as deemed appropriate by the Director of Treatment Plants to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.
- (j) **Permit Duration**
Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.
- (k) **Permit Transfer**

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

(l) **Permit Reissuance**

A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with **section 11.87** a minimum of 180 days prior to the expiration of the existing permit.

SECTION 11-88. – REPORTING REQUIREMENTS; BASELINE MONITORING REPORTS.

- (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a) (4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Director of Treatment Plants a report which contains the information listed in paragraph (b), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Director of Treatment Plants a report which contains the information listed in paragraph (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (b) Users described above shall submit the information set forth below.
- (1) Identifying Information. The name and address of the facility, including the name of the operator and owner.
 - (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
 - (3) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
 - (4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
 - (5) Measurement of Pollutants.
 - (A) The categorical pretreatment standards applicable to each regulated process.
 - (B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Director of Treatment Plants, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 11.97 of this ordinance.
 - (C) Sampling must be performed in accordance with procedures set out in section 11.98 of this ordinance and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).
 - (6) Certification. A statement, reviewed by the user's current authorized representative as defined in Section 11.72 and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

- (7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 11.88 of this ordinance.
- (8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with section 11.88 of this ordinance.

SECTION 11-89. – SAME; COMPLIANCE SCHEDULE PROGRESS REPORTS.

The following conditions shall apply to the compliance schedule required by **section 11.88** of this ordinance:

- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (b) No increment referred to above shall exceed nine (9) months;
- (c) The user shall submit a progress report to the Director of Treatment Plants no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- (d) In no event shall more than nine (9) months elapse between such progress reports to the Director of Treatment Plants.

SECTION 11-90. – SAME; REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD, DEADLINE.

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Director of Treatment Plants a report containing the information described in this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with this ordinance.

SECTION 11-91. – SAME; PERIODIC COMPLIANCE REPORTS.

Municipalities may sample and analyze user discharges in lieu of requiring the users to conduct sampling and analysis.

- (a) All significant industrial users shall, at a frequency determined by the Director of Treatment Plants but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in

accordance with procedures set out in sections 11.97 and 11.98 of this ordinance. All periodic compliance reports must be signed and certified in accordance with this ordinance.

- (b) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Director of Treatment Plants, using the procedures prescribed in sections 11.97 and 11.98 of this ordinance, the results of this monitoring shall be included in the report.

SECTION 11-92. – SAME; REPORTS OF CHANGED CONDITIONS.

Each user must notify the Director of Treatment Plants of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least [thirty (30)] days before the change. The permittee shall not begin the changes until receiving written approval from the Control Authority and/or Municipality.

- (a) The Director of Treatment Plants may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 11.87 of this ordinance.
- (b) The Director of Treatment Plants may issue a wastewater discharge permit under Section 11.87 of this Ordinance or modify an existing wastewater discharge permit under Section 11.87 of this ordinance in response to changed conditions or anticipated changed conditions.
- (c) For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of 20 percent or greater, and the discharge of any previously unreported pollutants, increases or decreases to production; increases in discharge of previously reported pollutants; discharge of pollutants not previously reported to the Control Authority and/or Municipality; new or changed product lines; new or changed manufacturing processes and/or chemicals; or new or changed customers.

SECTION 11-93. – SAME; REPORTS OF POTENTIAL PROBLEMS.

- (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in this ordinance, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Director of Treatment Plants of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (b) Within five (5) days following such discharge, the user shall, unless waived by the Director of Treatment Plants, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

- (d) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in this ordinance.

SECTION 11-94. – SAME; REPORTS FROM UNPERMITTED USERS.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Director of Treatment Plants as the Director of Treatment Plants may require.

All users classified as Non-Significant Categorical Industrial Users shall provide appropriate reports to the Director of Treatment Plants as the Director of Treatment Plants may require. At a minimum, this shall include the Annual Certification of continuing to meet the Non-Significant Categorical Industrial User criteria as required under 40 CFR 403.12(q).

SECTION 11-95. – SAME; NOTICE OF VIOLATION/REPEAT SAMPLING AND REPORTING.

- (a) If sampling performed by a user indicates a violation, the user must notify the Director of Treatment Plants within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director of Treatment Plants within thirty (30) days after becoming aware of the violation. If allowed by the Director of Treatment Plants, the user is not required to resample:
- (1) if the Director of Treatment Plants monitors at the user's facility at least once a month; or
 - (2) if the Director of Treatment Plants samples between the user's initial sampling and when the user receives the results of this sampling.
- (b) If the Director of Treatment Plants has performed the sampling and analysis in lieu of the industrial user and the POTW sampling of the user indicates a violation, the Director of Treatment Plants shall repeat the sampling and obtain the results of the repeat analysis within thirty (30) days after becoming aware of the violations, unless one of the following occurs:
- (1) the Director of Treatment Plants monitors at the user's facility at least once a month; or
 - (2) the Director of Treatment Plants samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or
 - (3) the Director of Treatment Plants requires the user to perform sampling and submit the results to the Director of Treatment Plants within the 30 day deadline of the POTW becoming aware of the violation.

SECTION 11-96. – SAME; NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.

The Town prohibits the discharge of any hazardous wastes without notification to and approval by the Director of Treatment Plants.

- (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharge during the calendar month, and an estimation of the mass and concentration of such constituents in the

wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than 180 days **before** the discharge commences. The user shall not begin the discharge until receiving written approval from the Town. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under Section 11.92 of this ordinance. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of this ordinance.

- (b) Dischargers are exempt from the requirements of paragraph (a), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- (c) In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Director of Treatment Plants, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- (d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

SECTION 11-97. – SAME; ANALYTICAL REQUIREMENTS.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed by a laboratory certified by the state to perform the wastewater analyses in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard or unless otherwise performed in accordance with procedures approved by EPA or Town. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA and Town. Analyses must be performed by a State certified lab for each parameter analyzed, if such certification exists for that parameter.

SECTION 11-98. – SAME; GRAB AND COMPOSITE SAMPLE COLLECTION.

- (a) All wastewater samples must be representative of the user' discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (b) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the User's discharge. See 40 CFR 403.12(g) (5) for additional grab sample number requirements for BMR and 90 Day Compliance Reports. Additionally, the Director of Treatment Plants may allow collection of multiple grabs during a 24 hour period which are composited prior to analysis as allowed under 40 CFR 136.

- (c) Composite Samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director of Treatment Plants. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

SECTION 11-99. – SAME; TIMING.

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

SECTION 11-100. – SAME; RECORD KEEPING.

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the Town, or where the user has been specifically notified of a longer retention period by the Director of Treatment Plants.

SECTION 11-101. – SAME; ELECTRONIC REPORTING.

The Director of Treatment Plants may develop procedures for receipt of electronic reports for any reporting requirements of this Ordinance. Such procedures shall comply with 40 CFR Part 3. These procedures shall be enforceable under Section 8 of this Ordinance.

SECTION 11-102. – COMPLIANCE MONITORING; MONITORING FACILITIES.

The Town requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the Town may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the requirements of the Town and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the Town.

SECTION 11-103. – SAME; INSPECTION AND SAMPLING.

The Town will inspect the facilities of any user to ascertain whether the purpose of this ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or

discharged shall allow the Town, approval authority and EPA or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The Town, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the Town, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the Town, approval authority's or EPA's access to the user's premises shall be a violation of this ordinance. Unreasonable delays may constitute denial of access.

SECTION 11-104. – SAME; SEARCH WARRANTS.

If the Town, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Town designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Town, approval authority, or EPA may seek issuance of a search warrant from the court having jurisdiction within the Town.

SECTION 11-105. – CONFIDENTIAL INFORMATION.

- (a) Information and data provided by an industrial user to the Director of Treatment Plants pursuant to this ordinance identifying the nature and frequency of a discharge, shall be available to the public without restriction. All other information which may be so submitted by an industrial user to the Director of Treatment Plants in connection with any required reports shall also be available to the public unless the industrial user or other interested person specifically identifies the information as confidential upon submission and is able to demonstrate to the satisfaction of the Director of Treatment Plants that the disclosure of such information or a particular part thereof to the general public would divulge methods or processes entitled to protection as trade secrets.
- (b) Information provided by an industrial user to the Director of Treatment Plants that is determined to be entitled to confidential treatment shall be made available upon written request to the Division of Water Resources or any state agency for uses related to the Pretreatment Program, the National Pollutant Discharge Elimination System (NPDES) Permit, collection system permit, stormwater permit, and/or Non-discharge permit, and for uses related to judicial review or enforcement proceedings involving the person furnishing the report.
- (c) Information and data received by the Division or other state agency under paragraph (b) above shall be subject to the processes set forth in G.S. 143-215.3C.

SECTION 11-106. – ENFORCEMENT; ADMINISTRATIVE REMEDIES.

- (a) **Notification of Violation**
Whenever the Director of Treatment Plants finds that any industrial user has violated or is violating this Ordinance, wastewater permit, or any prohibition, limitation or requirements contained therein or any other pretreatment requirement the Director of Treatment Plants may

serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to the Town by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(b) **Consent Orders**

The Director of Treatment Plants is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to **Section 11.106 (d)**, below.

(c) **Show Cause Hearing**

The Director of Treatment Plants may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this ordinance or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the Director of Treatment Plants determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

The Director of Treatment Plants shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under Section 11.107 nor is any action or inaction taken by the Director of Treatment Plants under this section subject to an administrative appeal under Section 11.111.

(d) **Administrative Orders**

When the Director of Treatment Plants finds that an industrial user has violated or continues to violate this ordinance, permits or orders issued hereunder, or any other pretreatment requirement the Director of Treatment Plants may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:

- (1) Immediately comply with all requirements;
- (2) Comply in accordance with a compliance time schedule set forth in the order;
- (3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation;
- (4) Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

(e) **Emergency Suspensions**

The Director of Treatment Plants may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or Non-discharge permit.

Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the Director of Treatment Plants shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The Director of Treatment Plants shall

reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Director of Treatment Plants prior to the date of the above-described hearing.

(f) **Termination of Permit or Permission to Discharge**

The Director of Treatment Plants may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:

- (1) Failure to accurately report the wastewater constituents and characteristics of his discharge;
- (2) Failure to report significant changes in operations, or wastewater constituents and characteristics;
- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,
- (4) Violation of conditions of the permit or permission to discharge, conditions of this ordinance, or any applicable State and Federal regulations.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under Section 11.106 of this ordinance why the proposed action should not be taken.

SECTION 11-107. – SAME; CIVIL PENALTIES.

- (a) Any user who is found to have failed to comply with any provision of this ordinance, or the orders, rules, regulations and permits issued hereunder, may be assessed a civil penalty of up to twenty-five thousand dollars (\$25,000) per day per violation.
 - (1) Penalties between \$10,000 and \$25,000 per day per violation may be assessed against a violator only if:
 - (A) For any class of violation, only if a civil penalty has been imposed against the violator within the five years preceding the violation, or
 - (B) In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this ordinance, or the orders, rules, regulations and permits issued hereunder, only if the Director of Treatment Plants determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.
- (b) In determining the amount of the civil penalty, the Director of Treatment Plants shall consider the following:
 - (1) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;
 - (2) The duration and gravity of the violation;
 - (3) The effect on ground or surface water quantity or quality or on air quality;
 - (4) The cost of rectifying the damage;
 - (5) The amount of money saved by noncompliance;
 - (6) Whether the violation was committed willfully or intentionally;
 - (7) The prior record of the violator in complying or failing to comply with the pretreatment program;
 - (8) The costs of enforcement to the Town.
- (c) Appeals of civil penalties assessed in accordance with this section shall be as provided in Section 11.111.

SECTION 11-108. – OTHER AVAILABLE REMEDIES.

Remedies, in addition to those previously mentioned in this Ordinance, are available to the Director of Treatment Plants who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:

- (a) **Criminal Violations.**
The District Attorney for the applicable Judicial District may, at the request of the Town, prosecute noncompliant users who violate the provisions of N.C.G.S. 143-215.6B. [Note: Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (G.S. 143-215.6B(h)), and to falsify information required under Article 21 of Chapter 143 of the General Statutes (G.S. 143-215.6B(i)).]
- (b) **Injunctive Relief**
Whenever a user is in violation of the provisions of this ordinance or an order or permit issued hereunder, the Director of Treatment Plants, through the Town Attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.
- (c) **Water Supply Severance**
Whenever an industrial user is in violation of the provisions of this ordinance or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.
- (d) **Public Nuisances**
Any violation of the prohibitions or effluent limitations of this ordinance or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the Director of Treatment Plants. Any person(s) creating a public nuisance shall be subject to the provisions of the appropriate ordinances of the Town governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

SECTION 11-109. – REMEDIES NONEXCLUSIVE.

The remedies provided for in this ordinance are not exclusive. The Director of Treatment Plants may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Town's enforcement response plan. However, the Director of Treatment Plants may take other action against any user when the circumstances warrant. Further, the Director of Treatment Plants is empowered to take more than one enforcement action against any noncompliant user.

SECTION 11-110. – ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE.

At least annually, the Director of Treatment Plants shall publish in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance, in 15A NCAC 2H .0903(b)(34), with applicable pretreatment standards and requirements, during the previous 12 months.

SECTION 11-111. – ADJUDICATORY HEARINGS.

- (a) Judicial Review. An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under **Section 11.107**, or one issued an administrative order under **Section 11.106** may seek judicial review of the order or decision by filing a written request for review by the Superior Court of Scotland County within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, along with a copy to the Town. Within 30 days after receipt of the copy of the petition of judicial review, the Town shall transmit to the reviewing court the original or a certified copy of the official record of their decision.

SECTION 11-112. – AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS; UPSET

- (a) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (b), below, are met.
- (b) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the user can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The user has submitted the following information to the Director of Treatment Plants within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:
 - (A) A description of the indirect discharge and cause of noncompliance;
 - (B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (C) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (c) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (d) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (e) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

SECTION 11-113. – BYPASS.

- (a) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (b) and (c) of this section.
- (b)
 - (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Director of Treatment Plants, at least ten (10) days before the date of the bypass, if possible.
 - (2) A user shall submit oral notice to the Director of Treatment Plants of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of this time the user becomes aware of the bypass. The

written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Director of Treatment Plants may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

- (c)
 - (1) Bypass is prohibited, and the Director of Treatment Plants may take an enforcement action against a user for a bypass, unless
 - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (C) The user submitted notices as required under paragraph (b) of this section.
 - (2) The Director of Treatment Plants may approve an anticipated bypass, after considering its adverse effects, if the Director of Treatment Plants determines that it will meet the three conditions listed in paragraph **(c)(1)** of this section.

SECTION 11-114. – SEVERABILITY.

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

SECTION 11-115. – CONFLICT.

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

SECTION 11-116. – EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its passage, approval and publication, as provided by law.

SECTIONS 11-117. – 11-120 – RESERVED.

ARTICLE 10. – FATS, OILS AND GREASE

SECTION 11-121. – PURPOSE.

This Ordinance is intended to aid in the prevention of sanitary sewer blockages and obstructions caused by the introduction, discharge and contribution of fats, oils, greases, grease complexes, scum, sludge and other organic polar compounds into the Town's wastewater collection system or publicly-owned treatment works by commercial, industrial, institutional and all other non-residential activities.

SECTION 11-122. – DEFINITIONS.

- (1) "Town" shall mean the Town of Wagram, North Carolina, and its utility service area.
- (2) "Person" shall mean any actual person, corporation, partnership, unincorporated association, and any governmental entity or political subdivision and departments and agencies thereof.
- (3) "Grease" "Fats" and "Dark Prints" shall mean all greases, grease complexes, fats, oils, scum, sludges and all other organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. Such substances are detectable and measurable using analytical procedures established in 40 C.F.R. 136. All are sometimes referred to herein as "Grease" or "greases".
- (4) "Wastewater" shall mean any substance introduced, contributed to, or discharged into the Town's wastewater collection system or publicly-owned treatment works ("POTW").
- (5) "Grease trap", "grease interceptor", or "sand trap" shall mean a device for separating and retaining waterborne greases and sand complexes before the wastewater which contains such grease exits the grease trap or interceptor into the Town's wastewater collection system or POTW. The grease trap or interceptor also collects settlable solids generated by or incidental to commercial, industrial and food preparation activities.
- (6) "Cooking establishment" shall mean any person primarily engaged in the activities of cooking, preparing, serving or otherwise making available for human consumption any form of foodstuff, and which uses one or more of the following cooking or preparation methods in connection with such activities: cooking or preparation by frying (all methods), baking (all methods), grilling, sautéing, rotisserie cooking, broiling (all methods), boiling, blanching, roasting, toasting, poaching, or any type of cooking or preparation that produces a hot non-potable product in or on a receptacle that requires washing, rinsing or other form of cleaning. Such establishments include, but are not limited to, restaurants, cafeterias, extended care facilities, school cafeterias (public and private), and daycare facilities where meals for more than six (6) children are prepared, served or otherwise made available for human consumption.
- (7) "Non-cooking establishment" shall mean any person primarily engaged in the rendering or preparation of pre-cooked foodstuffs that do not require or involve any form of cooking. Such establishments include, but are not limited to, establishments that are primarily engaged in the rendering preparation of cold dairy and frozen foodstuffs.

- (8) "User" shall mean any person primarily engaged in any commercial, industrial, institutional or other non-residential activity who introduces, contributes or discharges (or causes or permits the introduction, contribution or discharge of) wastewater into the Town's wastewater collection system or POTW, including but not limited to any person who introduces, contributes or discharges wastewater into the wastewater collection system or POTW through any mobile source.
- (9) "Commercial establishment" and "industrial establishment" shall mean any user that has the potential to use, contribute to or otherwise impact the Town's wastewater collection system or POTW. Such establishments include, but are not limited to, maintenance facilities, repair facilities and equipment cleaning facilities.
- (10) "Sand Traps" shall mean a design feature in the sanitary sewer line that takes out solids from car washes, garages, detail shops or any business that washes or cleans vehicles from which the water enters to sanitary sewer system.

SECTION 11-123. – GREASE TRAP AND INTERCEPTOR INSTALLATION, MAINTENANCE, RECORD KEEPING AND REMOVAL.

- (1) No later than one (1) year after adoption of this ordinance, all users shall install grease traps or interceptors designed to limit the introduction, contribution and discharge of greases into the Town's wastewater collection system or POTW. Grease traps and interceptors with appropriate sampling or inspection points shall be installed at the user's expense whenever any user operates a commercial, industrial, or institutional cooking establishment. Grease traps and interceptors must have a minimum capacity of one thousand (1,000) gallons or more as required to effect a grease concentration maximum of 200 mg/l.
- (2) Alternative methods of compliance may be approved by the Town if the user demonstrates that compliance with this ordinance is impossible or impractical at the time of adoption of this ordinance as a result of limited space. However, any such proposed alternative method of compliance will be required to meet the performance criteria specified in Section 18-142(1) of this ordinance, and the user must adequately demonstrate to the satisfaction of the Town that the proposed alternative method will satisfy those performance criteria. In addition, any such alternative method must be cleaned at a more frequent interval than is required of grease traps and interceptors under Section 18-142(5) of this ordinance. Prior to approval of any such proposed alternative method of compliance, documentation of the proposed method's actual performance criteria must be submitted to the Town's Public Utilities Director for review and approval.
- (3) Grease traps and interceptors may also be required in other facilities, as deemed necessary by the Town's designated Public Utilities Director.
- (4) Upon the prior written approval of the Public Utilities Director, non-cooking establishments may be exempted from the requirements of this ordinance after an inspection of the subject premises and submission of adequate supporting documentation, as deemed necessary in the sole and absolute discretion of the Public Utilities Director. At a minimum, such supporting documentation shall include: blueprints of the subject premises, a full and detailed description of the operations and activities at the subject premises, and a full and detailed list of all potential sources of grease at the subject premises.

- (5) Users shall empty and service grease traps and interceptors to comply with the performance criteria of this Ordinance as often as necessary, but in any event no longer than every sixty (60) days. The Town may require a specific schedule if deemed necessary by the Public Utilities Director. Under-the-counter types of grease traps and interceptors shall be cleaned at least daily, and shall comply with the performance criteria of this ordinance. There shall be no reintroduction of wastewater back into the grease trap or interceptor unless and until said wastewater has been proven to contain 200 mg/l or less of grease. Under no circumstances shall the sludge or scum layer be reintroduced or discharged into the Town's wastewater collection system or POTW.
- (6) Users shall supply (i) an adequate sampling point downstream of the grease trap or interceptor, prior to mixing with other sanitary flows, and (ii) an accessible entry into each chamber of the grease trap or interceptor. The minimum requirement for the sampling point shall be a four inch (4") vertical clean-out. The Town shall have the right to inspect at any time and without prior notice.
- (7) Users shall retain detailed records on-site for a minimum of three (3) years reflecting all maintenance carried out pursuant to this Ordinance. At a minimum, such records shall contain the following information: date of service, name of the employee involved, and a receipt reflecting all services rendered by the waste hauler providing the service.
- (8) Users are required to keep the grease trap or interceptor free of inorganic solids such as grit, towels, gloves, cigarettes, eating utensils, etc., which could clog or settle in the trap or interceptor, thereby reducing the effective volume or capacity of the trap or interceptor.
- (9) Users are required to ensure that all waste material removed from grease traps and interceptors is disposed of in a manner that complies with all federal, state and local statutes, rules, regulations, policies and ordinances.
- (10) Except as provided herein, for a period of one (1) year following the adoption of this ordinance, no enforcement actions will be taken under this section for failure to achieve the performance criteria specified in this Ordinance. If, during such period, (i) an obstruction of any of the Town's sanitary sewer main(s) occurs and causes a sewer overflow, spill, leak or other event with any environmental impact, and (ii) such overflow, spill, leak or other event may be attributed in part or in whole to a particular user, then the Town will seek enforcement action under the Sewer Use Ordinance, and/or the Pretreatment Enforcement Plan. For purposes of this section, an overflow, spill, leak or other event shall be deemed to have an environmental impact when (i) such overflow or other event involves an amount of wastewater equal to or in excess of one thousand (1,000) gallons, or (ii) any amount of wastewater reaches any body of surface water. The Town shall enforce this ordinance pursuant to the provisions of Article 9 of this Chapter of the Town's Code of Ordinances and/or the Town's Pretreatment Enforcement Plan.

SECTIONS 11-124 – 11-130. RESERVED

CHAPTER 12. – PRIVILEGE LICENSE TAX AND OTHER TAXES

ARTICLE 1. – PRIVILEGE LICENSE TAX

SECTION 12-1. – PRIVILEGE LICENSE TAX REPEALED

State Law G.S. 160A-211 has been repealed by the North Carolina General Assembly for taxable years beginning on or after July 1, 2015.

SECTION 12-2. – 12-25. - RESERVED.

ARTICLE 2. – AD VALOREM TAX

SECTION 12-26. – ANNUAL DETERMINATION.

The ad valorem tax rate shall be determined by the Town Board of Commissioners each year.

State Law Reference— General power to impose taxes, G.S. § 160A-206.

SECTION 12-27. – PAYMENT OF TAXES; DISCOUNTS AND PENALTIES.

All ad valorem taxes levied by the Town Board of Commissioners shall be due and payable on September 1 of the year in which they are assessed or levied. No discount will be allowed for payment of taxes before the due date. Penalties and interest shall be added at such times and in such amounts as may be prescribed by the General Statutes pertaining to the late payment of taxes.

SECTION 12-28. – SALE OF PROPERTY FOR UNPAID TAXES.

The Town Tax Collector is hereby designated or commissioned to sell all property, real or personal, to satisfy any tax certificate or lien, penalty or forfeiture, as is provided under state laws.

SECTION 12-29. – 12-45. – RESERVED.

CHAPTER 13. – OFFENSES, NUISANCES AND MISCELLANEOUS PROVISIONS

ARTICLE 1. - OFFENSES

SECTION 13-1. – DISORDERLY CONDUCT.

Any person shall be guilty of an offense of disorderly conduct if he or she:

- a) Acts in a violent or tumultuous manner toward another, whereby any person is placed in fear of safety for his life, limb or health;
- b) Acts in a violent or tumultuous manner toward another, whereby public property or property of any other person is placed in danger of being destroyed or damaged;
- c) Endangers lawful pursuits of another by acts of violence, angry threats and abusive conduct;
- d) Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another or public property;
- e) Assembles or congregates with another or others for the purpose of causing, provoking or engaging in any fight or brawl;
- f) Jostles or roughly crowds or pushes any person in any public place;
- g) Collects in bodies or in crowds for unlawful purposes;
- h) Assembles or congregates with another or others for the purpose of or with the intent to engage in gaming;
- i) Frequents any public place with intent to obtain money from another by an illegal and fraudulent scheme, trick, artifice or device;
- j) Assembles with another or others for the purpose of engaging in any fraudulent scheme, device or trick to obtain any valuable thing in any place or from any person in the Town or aids or abets therein;
- k) Utters, while in a state of anger, in the presence of another any lewd or obscene words or epithets;
- l) Frequents any place where gaming or the illegal sale or possession of alcoholic beverages or narcotics or dangerous drugs is practiced, allowed or tolerated;
- m) Acts in a dangerous manner toward others;
- n) Uses "fighting words" directed towards any person who becomes outraged and thus creates turmoil;
- o) Assembles or congregates with another or others for the purpose of doing bodily harm to another;
- p) By acts of violence, interferes with another's pursuit of a lawful occupation;
- q) Congregates with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic and refuses to clear such public way when ordered to do so by a peace officer or other person having authority;

- r) Damages, befouls or disturbs public property or the property of another so as to create a hazardous, unhealthy or physically offensive condition.

State Law Reference— Disorderly conduct at public buildings and grounds, G.S. § 14-132.
(1949 Ordinance, Chapter E)

SECTION 13-2. – BEGGING AND SOLICITING.

No person shall beg or solicit on the streets or in other public places of the Town or in the entrances or corridors to any public building in the Town without a permit issued by the Town.

State Law Reference— Authority to regulate begging, G.S. § 160A-179.

SECTION 13-3. – DISCHARGE OF FIREARMS AND OTHER WEAPONS.

Except as authorized in the subsections below, it shall be unlawful for any person to shoot or project any stone, rock, shot or other hard substance by means of a slingshot, bean shooter, pop-gun, bow or other similar contrivance; to fire any pistol, rifle, pellet gun, air gun or any firearm; or to discharge any fireworks within the Town, on or off his premises.

(a) This section shall not be construed to prohibit:

- (1) Any Town law enforcement officer or authorized employee of the Town in the division of animal control from discharging a firearm in the performance of his duty;
- (2) Any sworn law enforcement officer of the Town who is authorized to do so by the police chief from hunting deer within the corporate limits of the Town using a shot gun so long as such hunting takes place with the written consent of the owner of the property where the hunting occurs and in a manner that is consistent with all applicable regulations of the State of North Carolina and the Wagram Police Department.
- (3) Any person from discharging a firearm when lawfully defending his person or property.
- (4) The use of pyrotechnics within the Town pursuant to permits issued in accordance with N.C.G.S.14-54.

State Law Reference— Selling weapons to minors, G.S. § 14-315; permitting children to use firearms, G.S. § 14-316; sale of certain weapons without permit forbidden, G.S. § 14-402; authority to regulate discharge of firearms, G.S. § 160A-189, Authority to regulate possession and use of pellet guns, G.S. § 160A-190.

SECTION 13-4. – DAMAGE TO TOWN PROPERTY.

It shall be unlawful to injure, damage, deface, trespass upon, break or injure any property belonging to the Town.

SECTION 13-5. – DAMAGE TO PRIVATE PROPERTY.

It shall be unlawful to injure, damage or otherwise deface property belonging to another.

SECTION 13-6. – DISTURBING PUBLIC MEETINGS.

No person shall whistle, sing, shout or talk or make any noise at any concert, play, school commencement or other entertainment or public meeting or near the places where such are held, anywhere within the corporate limits, so as to disturb or annoy a person taking part in or attending the same.

SECTION 13-7. – LOITERING.

The following provision shall apply to loitering:

- (a) For the purposes of this section, "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 Town.
- (b) For the purposes of this section, a "known unlawful drug user, possessor, or seller" is a person who has, within the knowledge of the arresting officer, been convicted in any court within this state of any violation involving the use, possession or sale of any of the substances referred to in the North Carolina Controlled Substances Act, G.S. section 90-86 et seq., or has been convicted of any violation of any substantially similar laws of any political subdivision of this state or any other state or of federal law.
- (c) It shall be unlawful for a person to remain or wander about in a public place in a manner and under circumstances manifesting the purpose to engage in a violation of any subdivision of the North Carolina Controlled Substances Act, G.S. section 90-86 et seq. Such circumstances shall include:
 - (1) Repeatedly beckoning to, stopping, or attempting to stop passersby, or repeatedly attempting to engage passersby in conversation; or
 - (2) Repeatedly stopping or attempting to stop motor vehicles; or
 - (3) Repeatedly interfering with the free passage of other persons; or
 - (4) Such person is a known unlawful drug user, possessor, or seller; or
 - (5) Such person behaves in such a manner as to raise a reasonable suspicion that he is about to engage in or is engaged in an unlawful drug-related activity; or
 - (6) Such person repeatedly passes to or receives from passersby whether on foot or in a vehicle, money or objects; or
 - (7) Such person takes flight upon the approach or appearance of a police officer; or
 - (8) Such person is at a location frequented by persons who use, possess, or sell drugs; or
 - (9) Any vehicle involved is registered to a known unlawful drug user, possessor, or seller, or is known to be or has been involved in drug-related activities.
- (d) Violation of any provision of this section shall be a misdemeanor.

SECTION 13-8. – NOISE.

The making, creating, or maintenance of such excessive, unnecessary, unnatural, or unusually loud noises, which are prolonged, unusual, and unnatural in their time, place and use, affect and are detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the Town.

The necessity, in the public interest, for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of, and for the purpose of, securing and

promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the Town and its inhabitants.

State Law Reference— Authority to regulate noise, G.S. § 160A-184.

(Ord. 125)

SECTION 13-9. – NOISE-GENERAL.

It shall be unlawful for any person to make, continue, or cause to be made or continued, any excessive, unnecessary, or unusually loud noise or any noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others within the limits of the Town.

(Ord. 123)

SECTION 13-10. – NOISE-SPECIFICALLY PROHIBITED.

In addition to the general prohibitions set out in Section 13.9 above, and unless otherwise exempted, the following specific acts or the causing or permitting thereof, among others, are declared to be loud, disturbing, unnecessary, and unlawful noises in violation of this chapter, but such enumeration shall not be deemed to be exclusive, namely:

- a) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, truck or other vehicle on any street or public place of the Town, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device, except one operated by hand or electricity; the use of any horn, whistle, or other device operated by engine exhaust; and the use of any such signaling device when traffic is, for any reason, held up.
- b) *Radios, televisions, cassette players, compact disc players, phonographs, etc.* The using, operating, or permitting to be played, used or operated, of any radio, television, receiving set, drum, musical instrument, phonograph, cassette or compact disc player, or other similar machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine, or device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this section.
- c) *Noise from radios, tape or compact disc players, loudspeakers, or sound amplifiers in public places.*

1. No person shall play, use, or operate, or permit to be played, used or operated, any radio, tape recorder, cassette player, or other machine or device for reproducing sound, if it is located in or on any of the following:
 - a. Any public property, including any public street, highway, building, sidewalk, park, thoroughfare, or public or private parking lot; or
 - b. Any motor vehicle on a public street, highway, public space, or within the motor vehicular area of any public or private parking lot or park; and if, at the same time, the sound generated is audible at a distance of thirty (30) feet from the radio, tape recorder, cassette or compact disc player, or other machine or device that is producing the sound.
 2. Possession by a person or persons of any radio, tape recorder, cassette player or other machine or device for reproducing sound, as enumerated in subsection (3)a. above, shall be prima facie evidence that such person operates, or those persons operate, the radio, tape recorder, cassette or compact disc player, or other machine or device for reproducing sound.
- d) *Loudspeakers, amplifiers for advertising.* The using, operating, or permitting to be played, used, or operated, of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
- e) *Loudspeakers generally.* Using or operating, for any purpose, any loudspeaker, loudspeaker system, or similar device between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and 10:00 p.m. and 10:00 a.m. on weekends and holidays in areas within or adjacent to residential, commercial, or noise-sensitive areas, except for any noncommercial public speaking, public assembly, or other activity for which a special permit has been issued by the chief of police.
- f) *Street sales.* Offering for sale, selling anything, or advertising by shouting or outcry within any residential or commercial area or noise-sensitive zone of the Town, except by special permit issued by the chief of police.
- g) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 10 p.m. and 7 a.m., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.
- h) *Animals.* Owning, possessing, or harboring any animal or bird which frequently, or for continued duration, howls, barks, meows, squawks, or makes other sounds which create excessive and unnecessary noise across a residential or commercial real property line or within a noise-sensitive zone. This provision shall not apply to public zoos or private

animal attractions operated for profit to which the public has general admission and which are regulated by the Town. This section shall not apply to dogs.

- i) *Steam whistles.* The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work, or as a warning of fire or danger, or upon request of proper Town authorities.
- k) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises there from.
- l) *Defect in vehicle or load.* The use of any automobile, truck, motorcycle, or vehicle so out of repair, so loaded, or in such manner as to create loud and unnecessary grating, rattling, or other noise.
- m) *Loading and unloading.* Loading and unloading, opening, closing, or other handling of boxes, crates, containers, equipment, building materials, garbage cans, or similar objects between the hours of 7:00 p.m. and 6:00 a.m. on weekdays and 7:00 p.m. and 8:00 a.m. on weekends or holidays in or within fifty (50) yards of a residential area or noise-sensitive zone.
- n) *Construction and demolition.* Operating or causing the operation of any tools used in construction, drilling, repair, alteration, or demolition work between the hours of 9:00 p.m. and 6:00 a.m. on weekdays, or between 9:00 p.m. and 9:00 a.m. on weekends or holidays in or within fifty (50) yards of any residential area or noise-sensitive zone, except for emergency work by public service utilities or by special permit issued by the chief of police. This section shall not apply to the use of domestic power tools.
- o) *Powered model vehicles.* Operating, or permitting the operation of, powered model vehicles:
 - 1. Between the hours of 7:00 p.m. and 6:00 a.m. on weekdays and 7:00 p.m. and 10:00 a.m. on weekends or holidays in or within one hundred (100) feet of any residential area or noise-sensitive zone; or
 - 2. In such manner as to exceed the levels set for public space land use, measured at a distance of not closer than one hundred (100) feet (eighty (80) meters) from any point on the path of a vehicle operating on a public space or public right-of-way.
- p) *Emergency signaling devices.* The intentional sounding outdoors of any fire, burglary, or civil defense alarm, fire, whistle, or similar stationary emergency shall not occur before 7:00 a.m. or after 7:00 p.m., and any testing shall use the minimum cycle test time appropriate for such devices, in no case to exceed sixty (60) seconds. Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall occur only on weekdays and not before 7:00

a.m. or after 10:00 p.m., and shall be exempt from the time limit specified herein. The sounding, or permitting the sounding, of any exterior burglar or fire alarm or any motor vehicle burglar alarm, unless such alarm is automatically terminated within fifteen (15) minutes' activation, shall be prohibited.

- q) *Noise-sensitive zones.* Those areas containing a hospital, nursing home, school, court, or other designated areas, provided that conspicuous signs are displayed indicating the presence of one (1) or more of such facilities, are noise-sensitive zones.
- r) *Domestic power tools.* Operating, or permitting the operation of, any mechanically powered saw, drill, grinder, lawn or garden tool, or similar tool between 10:00 p.m. and 6:00 a.m. on weekdays, or 10:00 p.m. and 7:00 a.m. on weekends and holidays, unless such equipment is operated inside a building or other structure so that the sound therefrom does not travel across any residential real property line or noise-sensitive area. All such equipment shall be properly muffled and maintained in working order so as not to create excessive and unnecessary noise.
- s) *Morning to evening.* The creation of any unreasonable loud, disturbing, and unnecessary noise in the Town between the hours of 7:00 a.m. and 10:00 p.m., within one hundred (100) yards of a dwelling unit, house, trailer, or other building ordinarily occupied by another person, when such person who owns or is in control of such building and has not given prior consent, or within twenty-five (25) yards of a publicly maintained road or public vehicular area, is prohibited.
- t) *Nighttime.* Subject to the provisions of Chapter, the creation of any unreasonably loud, disturbing, and unnecessary noise in the Town between 10:00 p.m. and 7:00 a.m. the following morning, within one hundred (100) yards of a dwelling unit, house, trailer, or other building ordinarily occupied by another person, when such person who owns or is in control of such building has not given prior consent, or within twenty-five (25) yards of a publicly maintained highway or public vehicular area, is prohibited.
- u) *Unmuffled Engine Compression Brake.* No person shall use an engine braking system inside the town limits of Wagram which in any way is activated or operated by the compression of the engine of any such unit or part thereof except in case of emergency or is necessary for the protection of persons and/or property. The Town will identify the areas that engine braking is prohibited by posting signs approved by NCDOT in well-defined open locations leading into town, and stating, No Engine Braking Inside Town Limits. Violation of this section constitutes a traffic infraction, and shall be punishable by a penalty set by the Town Board of Commissioners. For the purposes of this section, Unmuffled Engine Compression Brake shall be defined as a motor vehicle brake which is activated or worked by compression of an engine of a motor vehicle, and which is not effectively muffled to prevent excess noise.

SECTION 13-11. – NOISE-STANDARDS FOR DETERMINING VIOLATION.

The standards which shall be considered in determining whether a violation of Section 13-10. exists shall include, but shall not be limited to, the following:

- a) The volume of the noise.
- b) The intensity of the noise.
- c) Whether the nature of the noise is usual or unusual.
- d) Whether the origin of the noise is natural or unnatural.
- e) The volume and intensity of the background noise, if any.
- f) The proximity of the noise to residential sleeping facilities.
- g) The nature and zoning of the area within which the noise emanates.
- h) The density of inhabitation of the area within which the noise emanates.
- i) The time of the day or night the noise occurs.
- j) The duration of the noise.
- k) Whether the noise is recurrent, intermittent, or constant.
- l) Whether the noise is produced by a commercial or noncommercial activity.

SECTION 13-12. – NOISE-EXEMPTIONS.

The following are exempt from the provisions of Section 13.10.:

- a) Lawn mowers and agricultural equipment during daylight hours (7:00 a.m. to 10:00 p.m.) when operated with all the manufacturers' standard mufflers and noise-reducing equipment in use and proper operating condition.
- b) Non-amplified crowd noises resulting from the activities such as those planned by student, governmental, or community groups.
- c) Construction operations for which building permits have been issued or construction operations not requiring permits due to ownership of the project by an agency of government; providing all equipment is operated in accord with the manufacturers' specifications and with all standard equipment, manufacturers' mufflers, and noise-reducing equipment in use and in proper operating condition.
- d) Noises of safety signals, warning devices, emergency pressure relief valves and bells and chimes of churches.
- e) Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.
- f) Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the Town in accordance with the above. Regulation of noises emanating from operations under permit shall be according to the conditions and limits stated on the permit and contained above.
- g) Noises made by persons having obtained a permit to use the streets.

- h) All noises coming from the normal operations of aircraft (not including scale model aircraft).

SECTION 13-13. – NOISE-PERMITS FOR RELIEF FROM ALLOWABLE NOISE LEVEL LIMITS.

Applications for a permit for relief from the maximum allowable noise level limits designated in Section 13.12, above, may be made in writing to the Chief of Police or his duly authorized representative. Any permit granted by the chief of police hereunder must be in writing and shall contain all conditions upon which such permit shall be effective. The Chief of Police or his duly authorized representative may grant the relief as applied for under the following conditions:

- a) The Chief of Police may prescribe any reasonable conditions or requirements he deems necessary to minimize adverse effects upon the community or the surrounding neighborhood, including use of mufflers, screens, or other sound-attenuating devices.
- b) Permits for entertainment. Permits may be granted for the purpose of entertainment under the following conditions:
1. The function must be open to the public (admission may be charged).
 2. The function must take place on public property.
 3. The function must be staged between the hours of 9:00 a.m. and 12:00 midnight.
- c) Special permits for non-entertainment special purposes may be issued under the following conditions:
1. If the special purpose relates to the operation of a trade or business, that the special purpose not be in the ordinary course of that trade or business; or, if the special purpose does not relate to the operation of a trade or business, that the special purpose not be an ordinary event in the affairs of the applicant;
 2. If the special purpose be a recurring purpose, that it not recur more often than four (4) times each calendar year;
 3. That the special purpose be absolutely necessary to the operation of the applicant's trade or business; or, if the special purpose does not relate to the operation of the trade or business, that the special purpose be compatible with the ordinary activities of the neighborhood in which the special purpose is to occur;
 4. Except in emergency situations, as determined by the Chief of Police, the special permit may be issued only between 7:00 a.m. and 12:00 p.m. on weekdays; and

5. The special permit may be issued for no longer than fifteen (15) consecutive days, renewable by further application to the Chief of Police.
- d) Exterior loudspeaker not permitted. No permit may be issued to permit the use of any loudspeaker or sound-amplifying device on the exterior of any building, except those used for emergency warnings.
 - e) Appeal. Anyone aggrieved by the provisions of this section shall have the right to appeal the decision of the Chief to the Town Board of Commissioners. The appeal shall be in writing and filed with the Town Clerk within ten (10) days after the decision of the Chief of Police. Upon receipt of a notice of appeal, the Town Board of Commissioners shall grant a hearing to the appellant at the next Town Board of Commissioners meeting, provided such notice of appeal is received by 5:00 p.m. on the Thursday before such Commission meeting.
 - f) At the hearing before the Town Board of Commissioners, pursuant to an appeal as requested herein, the Town Board of Commissioners shall hold a public hearing to determine whether issuance of the permit would be detrimental to the public health, safety, and welfare of the community. If the Town Board of Commissioners determines that the issuance of the permit would not be detrimental to the public health, safety, and welfare, the Town Board of Commissioners shall specifically authorize the chief of police to issue the permit to the applicant. If the Town Board of Commissioners determines that the issuance of the permit would be detrimental to the public health, safety, and welfare of the community, the Town Board of Commissioners shall so notify the applicant, and the Chief of Police shall not issue the permit.

SECTION 13-14. – NOISE - ENFORCEMENT RESPONSIBILITY.

The Chief of Police of the Town shall have primary enforcement responsibility for Section 13.10 as they relate to stationary sources and as they relate to motor vehicle sources, provided that:

- a) Powers of arrest or citation. Any police officer shall issue a citation for any violation under Section 13.10, except they may arrest for instances when:
 - (1) The alleged violator refuses to provide the officer with such person's name and address and any proof thereof as may be reasonably available to the alleged violator; or
 - (2) The alleged violator refuses to cease such illegal activity after being issued a citation.

SECTION 13-15. – NOISE - PENALTIES FOR VIOLATION.

- a) Any person, firm or corporation violating any provision of Section 13.10 of this Code shall be subject to a civil penalty in the amount of one hundred dollars (\$100.00) for each offense, and separate offenses shall be deemed committed on each day during or on which a violation occurs or continues.

- b) Any person, firm or corporation found to be in violation of any provision of Section 13.10 shall be issued a citation which shall, among other things:
- (1) State upon its face the amount of the civil penalty and that it shall be paid within forty-eight (48) hours from and after such violations; or
 - (2) Notify such offender that failure to pay the penalty within the prescribed time shall subject the offender to a civil action in the nature of a debt for the stated penalty plus the cost of the action, to be taxed in the court.
- d) If the penalty prescribed in subsection (a) above is not paid within forty-eight (48) hours, the Town may initiate a civil action in the nature of a debt and recover the civil penalty and the cost of the action.

SECTION 13-16. – NOISE - SEVERABILITY.

If any article, section, subsection, sentence or clause of Section 13.10 is adjudged to be unconstitutional or invalid, such adjudication shall not affect the validity of the remaining portions of Section 13.10.

SECTION 13-17. – OBSCENITY.

It shall be unlawful for any person to do any obscene act in any public place or to write obscene language or to place obscene markings or drawings on any wall, building, street or sidewalk.

State Law Reference— Obscenity generally, G.S. §§ 14-190.1—14-197.

SECTION 13-18. – PICKETING.

Peaceful picketing, including demonstrating, in the furtherance of a lawful purpose shall be permitted in the Town, provided the picketing is done under the following conditions:

- (1) Picketing shall be conducted only on the sidewalks or other Town-owned area normally used or reserved for pedestrian movement, including easements and rights-of-way, and shall not be conducted on the portion of a street used primarily for vehicular traffic.
- (2) Not more than ten (10) pickets promoting the same objective shall be permitted to use the sidewalks within one (1) block in the Town at any one (1) time.
- (3) Such pickets may carry written or printed placards or signs not exceeding two (2) feet in width and two (2) feet in height promoting the objective for which the picketing is done, provided the words used are not defamatory in nature or would not tend to produce violence. The staff on which such placard is carried shall not exceed forty (40) inches in length, must be made of wood, shall not exceed three-fourths inch in diameter at any point and must be blunt at each end.
- (4) Pickets must march in single file and not abreast and may not march closer together than fifteen (15) feet, except in passing one another.
- (5) If pickets promoting different objectives desire to use the same sidewalk for picketing and such use would result in the presence of more than ten (10) pickets thereon, the chief of police shall allot time to each group of pickets for the use of such sidewalk on an equitable basis, but each group shall be permitted to picket subject to the provisions of this section at least once every two (2) hours.

- (6) It shall be unlawful for any picket to address profane, indecent, abusive or threatening language to or at any person which would tend to provoke such person or others to a breach of the peace.
- (a) *Interference with pickets.* It shall be unlawful for any person to physically interfere with such pickets in the use of the sidewalk or to address profane, indecent, abusive or threatening language to or at such pickets which would tend to provoke such pickets or others to a breach of the peace.
- (b) *Authority of police.* The police officers of the Town may, for the assemblage of persons in such numbers as to tend to intimidate pickets pursuing their lawful objective through numbers alone or through use of inflammatory words, direct the dispersal of persons so assembled and may arrest any person who fails to absent himself from the place of such assemblage when so directed by the police.
- (c) *Maintenance of free passage.* Whenever the free passage of any street or sidewalk in the Town shall be obstructed by a crowd, the persons composing such crowd shall disperse or move on when so directed by a police officer as provided in this section.

State Law Reference— Picketing with intent to obstruct justice, G.S. § 14-225.1.

SECTION 13-19. – DISTURBING SCHOOL FUNCTIONS OR SCHOOL CHILDREN.

It shall be unlawful for any person at or near any school house or property within the Town to engage by conversation or sign or otherwise attract the attention of any of the pupils therein or thereon, to the disturbance of the pupils and to the detriment of the discipline of such school, or otherwise loiter or cause any disturbance whatsoever on or near school property. It shall further be unlawful for any person to cause any disturbance or to disrupt any school function, sport or other gathering within the Town, whether the same be on or off school property.

SECTION 13-20. – UNLAWFULLY ASSEMBLY.

It shall be unlawful for any two (2) or more persons within the Town to assemble together for any unlawful purpose or, being assembled, to act in concert to do any unlawful act with force and violence against the property of the Town or to the person or property of another or against the peace or to the terror of citizens or other persons or who shall make any movement or preparation therefore. No person shall knowingly suffer or permit any assemblage for the purpose of committing any unlawful act or breach of the peace or any riotous, offensive or disorderly conduct in or upon the premises owned by him or under his control within the Town.

SECTION 13-21. – PLAYING AND LOITERING AROUND RAILROAD YARDS OR SIDE TRACKS.

It shall be unlawful for any person to play or loiter around the yards or side tracks of the railroad.

SECTION 13-22. – USE OF PARKING LOTS.

- a) *Definition.* "Parking lot" means, for the purposes of this section, any area within the Town of sufficient size to provide space on which more than five (5) automobiles may be parked and shall include public parking lots and those parking lots which are for the principal purpose of providing

parking during business hours for shopping centers, stores, restaurants, drive-ins, theaters and other business or commercial establishments.

- b) *Congregation prohibited.* It shall be unlawful for more than five (5) people to congregate on any one (1) parking lot in the Town between the hours of 9:00 p.m. and 6:00 a.m., if the closest part of the parking lot is within three hundred (300) feet of a private residence, except for the purpose of patronizing a business establishment which is actually open for business between such hours and which is actually open at the time of such congregation.
- c) *Enumeration of offenses.* It shall be unlawful for any person on a parking lot in the Town, between the hours of 9:00 p.m. and 6:00 a.m., to do one (1) or more of the following:
- (1) Talk in a loud or boisterous manner;
 - (2) Drink beer or any kind of alcoholic beverage;
 - (3) Throw any type of bottle, can, container, trash or paper on the parking lot;
 - (4) Use profanity or curse in such a manner that those standing in the immediate vicinity of the person may hear the profanity or cursing;
 - (5) Make such noise or disturbance that persons living in homes or other dwelling accommodations within three hundred (300) feet of the parking lot are disturbed in their place of living and deprived of their peace and quiet.

State Law Reference— Authority to regulate off-street parking lots, G.S. § 160A-302.

(Ord. 121)

SECTIONS 13-23. – 13-30. – RESERVED.

ARTICLE 2. - NUISANCES

SECTION 13-31. – NUISANCES DESCRIBED.

Anything that causes an offensive odor or that causes injury or damage to the health or life of any other person or anything that interferes with the peaceful enjoyment of one's property is hereby declared to be a nuisance.

SECTION 13-32. – NUISANCES PROHIBITED.

It shall be unlawful for any person to create a nuisance on his lot or a lot occupied by him or to allow a nuisance to remain on his lot or a lot occupied by him.

(1949 Ordinance, Chapter E)

SECTION 13-33. – STAGNANT WATER, TRASH, DEBRIS AND NOXIOUS MATTER DECLARED NUISANCES; ABATEMENT.

The accumulation and existence of stagnant water, trash, debris or other noxious matter upon any lot or part thereof within the corporate limits of the Town is hereby declared to be a nuisance, and any person permitting or allowing any such nuisance to exist within the Town shall be guilty of a misdemeanor. Every such nuisance shall be abated pursuant to the procedure established for the abatement of weeds.

SECTION 13-34. – 13-40. – RESERVED.

ARTICLE 3. – MISCELLANEOUS PROVISIONS: ABANDONED AND JUNKED MOTOR VEHICLES.

SECTION 13-41. – STATEMENT OF POLICY.

The Town Board of Commissioners has found it necessary and desirable to promote or enhance:

- a) The quality of urban attractiveness and the aesthetic appearance of the Town;
- b) The protection of property values throughout the Town;
- c) The preservation of the livability and attractiveness of neighborhoods;
- d) The promotion of tourism and other opportunities for economic development for the Town;
- e) The attractiveness of the Town's thoroughfares and commercial roads which present the primary, public visibility to visitors and to passers-by of the Town; and
- f) The promotion of the comfort, happiness, and emotional stability of occupants of property in the vicinity of junked motor vehicles.

SECTION 13-42. – DEFINITIONS.

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

Abandoned vehicle, as authorized and defined in G.S. section 160A-303, means one that:

- (1) Has been left upon a public street or highway in violation of a law or ordinance prohibiting parking; or
- (2) Is left on property owned or operated by the Town for longer than twenty-four (24) hours; or
- (3) Is left on private property without consent of the owner, occupant or lessee thereof for longer than two (2) hours; or
- (4) Is left on any public street or highway longer than seven (7) days or is determined by law enforcement to be a hazard to the motoring public.

Authorizing official means the supervisory employee of the Police Department or the Code Enforcement inspector (other public official), respectively, designated to authorize the removal of vehicles under the provisions of this article.

Junked motor vehicle, as authorized and defined in G.S. section 160A-303.2, means a vehicle that does not display a current license plate lawfully upon that vehicle and that:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- (3) Is more than five (5) years old and is worth less than one hundred dollars (\$100.00).

Motor vehicle or vehicle means a machine designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

Nuisance vehicle means a vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:

- (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests;
- (2) A point of heavy growth of weeds or other noxious vegetation over eight (8) inches in height;
- (3) A point of collection of pools or ponds of water;
- (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor;
- (5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, etc.;
- (6) So situated or located that there is a danger of it falling or turning over;
- (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;
- (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Town Board of Commissioners.

SECTION 13-43. – ADMINISTRATION.

The Police Department or other appointed official by the Town Board of Commissioners shall be responsible for the administration and enforcement of this article. The Town Police Department shall be responsible for administering the removal and disposition of vehicles determined to be abandoned on the public streets and highways within the Town and on property owned by the Town. The Police Department or other Town appointed official shall be responsible for administering the removal and disposition of abandoned, nuisance or junked motor vehicles located on private property. The Town may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store and dispose of abandoned vehicles, nuisance vehicles and junked motor vehicles in compliance with this article and applicable state laws. Nothing in this article shall be construed to limit the legal authority or powers of officers of the Town Police Department and local Fire Department in enforcing other laws or in otherwise carrying out their duties.

SECTION 13-44. – ABANDONED VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

- (a) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned.
- (b) Upon investigation, proper authorizing officials of the Town may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

SECTION 13-45. – NUISANCE VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

- (a) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle or for the owner, lessee or occupant of the real property upon which the vehicle is located to

leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.

- (b) Upon investigation, the Police Department or appointed Town official may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle and order the vehicle removed.

SECTION 13-46. – JUNKED MOTOR VEHICLE REGULATED; REMOVAL AUTHORIZED.

- (a) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle or for the owner, lessee or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.
- (b) It shall be unlawful to have a junked motor vehicle on the premises of public or private property.
- (c) Upon investigation, the Police Department or appointed Town official may order the removal of a junked motor vehicle after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such findings shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following among other relevant factors may be considered:
 - (1) Protection of property values;
 - (2) Promotion of tourism and other economic development opportunities;
 - (3) Indirect protection of public health and safety;
 - (4) Preservation of the character and integrity of the community; and
 - (5) Promotion of the comfort, happiness and emotional stability of area residents.

SECTION 13-47. – REMOVAL; PRE-TOWING NOTICE REQUIREMENT.

- (a) Except as set forth in Section 13.48 below, an abandoned, nuisance or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the name and mailing address of the registered owner or person entitled to the possession of the vehicle or the owner, lessee or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first-class mail. The person who mails the notice shall retain a written record to show the name and address to which mailed and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the Town on a specified date, no sooner than seven (7) days after the notice is affixed. The notice shall state that the vehicle will be removed by the Town on a specified date, no sooner than seven (7) days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

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

SECTION 13-48. – EXCEPTION TO PRIOR NOTICE REQUIREMENT.

The requirement that notice be given prior to the removal of an abandoned, nuisance or junked motor vehicle may, as determined by the authorizing official, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorizing official in the appropriate daily records. Circumstances justifying the removal of vehicles without prior notice include:

- a) *Vehicles abandoned on the streets.* For vehicles left on public streets and highways, the Town Board of Commissioners hereby determines that immediate removal of such vehicles may be warranted when they are:
1. Obstructing traffic;
 2. Parked in violation of an ordinance prohibiting or restricting parking;
 3. Parked in a no-stopping or -standing zone;
 4. Parked in a loading zone;
 5. Parked in a bus zone; or
 6. Parked in violation of a temporary parking restriction imposed under this code.
- b) *Other abandoned or nuisance vehicles.* With respect to abandoned or nuisance vehicles left on city-owned property other than the streets and highways and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

SECTION 13-49. – REMOVAL; POST-TOWING NOTICE REQUIREMENT.

- (a) Any abandoned, nuisance or junked motor vehicle which has been ordered removed may, as directed by the Town, shall be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the Town. Whenever such a vehicle is removed, the Town official shall immediately notify the last known registered owner of the vehicle, such notice to include the following:
- (1) The description of the removed vehicle;

- (2) The location where the vehicle is stored;
 - (3) The violation with which the owner is charged, if any;
 - (4) The procedure the owner must follow to redeem the vehicle; and
 - (5) The procedure the owner must follow to request a probable cause hearing on the removal.
- (b) The Town shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in subsections (a)(1) through (a)(5) of this section, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or his agent.
- (c) If the vehicle is registered in the state, notice shall be given within twenty-four (24) hours. If the vehicle is not registered in the state, notice shall be given to the registered owner within seventy-two (72) hours from the removal of the vehicle.
- (d) Whenever an abandoned, nuisance or junked motor vehicle is removed and such vehicle has no valid registration or registration plates, the authorizing Town official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information set forth in subsections (a)(1) through (a)(5) of this section.

State Law Reference – Notice and Probable Cause Hearing, G. S. § 20-219.11(a) and (b).

SECTION 13-50. – RIGHT TO A HEARING BEFORE SALE OR FINAL DISPOSITION OF VEHICLE.

After the removal of an abandoned vehicle, nuisance vehicle or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the county magistrate designated by the chief district court judge to receive such hearing requests. The magistrate will set the hearing within seventy-two (72) hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of N.C. Gen. Stat. Section 20-222.

State Law Reference – Notice and Probable Cause Hearing, G.S. § 20-219.11(a) and (b).

SECTION 13-51. – REDEMPTION OF VEHICLE DURING PROCEEDINGS.

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying a towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this article.

SECTION 13-52. – SALE AND DISPOSITION OF UNCLAIMED VEHICLE.

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the Town or tow truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the Town and in accordance with N.C. Gen. Stat. Chapter 44A, Article 1.

SECTION 13-53. – CONDITIONS OF REMOVAL OF VEHICLES FROM PRIVATE PROPERTY.

As a general policy, the Town will not remove a vehicle from private property if the owner, occupant or lessee of such property could have the vehicle removed under applicable state law procedures. In no case will a vehicle be removed by the Town from private property without a written request of the owner, occupant or lessee, except in those cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the Town official. The Town may require any person requesting the removal of an abandoned, nuisance or junked motor vehicle from private property to indemnify the Town against any loss, expense or liability incurred because of the removal, storage or sale thereof.

SECTION 13-54. – PROTECTION AGAINST LIABILITY.

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

SECTION 13-55. – UNLAWFUL REMOVAL OF IMPOUNDED VEHICLE.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the Town any vehicle which has been impounded pursuant to the provisions of this Code unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

SECTION 13-56. – EXCEPTIONS.

Nothing in this article shall apply to any vehicle:

- a) Which is located in a bona fide automobile graveyard or junkyard as defined in G.S. section 136-143, in accordance with the Junkyard Control Act, G.S. section 136-141 et seq.;
- b) Which is in an enclosed building;
- c) Which is on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise; or
- d) Which is in an appropriate storage place or depository maintained in a lawful place and manner by the Town.

SECTION 13-57. – FEES AND CHARGES.

The fees and charges for the removal and storage of abandoned or junked motor vehicles shall be determined from time to time by the Commission and listed in the schedule of fees and charges maintained in the Town Clerk's office.

SECTION 13-58. – STORAGE OF UNLICENSED MOTOR VEHICLES.

- (a) No person may cause, suffer or permit, on premises under the control of such person, the storage, outside a fully enclosed structure, of a motor vehicle that does not display current license plates and a current inspection sticker unless a permit has been issued for such vehicle under this section, provided that:

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- (1) The restrictions of this section shall not apply to any person until forty-five (45) days after the administrator initially notifies the responsible person that a permit is required under this section; and
 - (2) This section shall not apply to persons lawfully engaged in a business necessitating such storage so long as such business has received all legally required state and local permits and licenses.
- (b) An application or an initial permit under this section shall be made to the administrator on a form prescribed by the Town within thirty (30) days after the administrator notifies the responsible person that a permit is required under this section. Permits shall be valid for a period of six (6) months from the date of issuance. The administrator shall send to the permittee an application for a renewal permit at least thirty (30) days prior to the expiration of the permit, and an application for a renewal permit must be submitted to the administrator at least fifteen (15) days prior to expiration of the permit.
- (c) Any person who submits a completed permit application pursuant to subsection (b) shall be issued a permit under this section if:
- (1) The applicant pays a semi-annual permit fee the amount for which shall be established in the Schedule of Rates and Fees;
 - (2) The applicant demonstrates to the reasonable satisfaction of the administrator either that (i) the vehicle is operable or (ii) the vehicle is capable of being made operable and the applicant is in the process of repairing the vehicle such that it will be made operable within a period of not more than six (6) months. When a vehicle has remained inoperable for a continuous period of six (6) months or more after the issuance pursuant to this subsection of a permit that was premised upon a finding of compliance with subdivision (ii) of this subsection, the administrator shall regard this in subsequent applications as conclusive evidence of the applicant's inability to satisfy subdivision (ii); and
 - (3) The applicant demonstrates that he or she owns or leases the property on which the vehicle is stored or has the written permission of the owner or lessee of such property to store the vehicle at that location.
- (d) If the designated Town official denies an application for an initial or renewal permit on the basis that the applicant has failed to demonstrate that the vehicle is operable or can be made operable within a period of six (6) months, the applicant may appeal this determination to the Board of Adjustment in accordance with the same procedures applicable to appeals under the Town Zoning Ordinance. The board may find that a vehicle is capable of being made operable within a period of six (6) months or more after the issuance of a previous permit under this section.
- (e) For purposes of this section, the appointed Town official, shall be the Chief of Police or any person designated by the Town Board of Commissioners to perform the functions and exercise the responsibilities assigned by this section to the administrator.

- (f) The provisions of this section shall not apply to a vehicle determined by the administrator to be a junked motor vehicle or a nuisance motor vehicle.
- (g) A violation of the provisions of this section shall subject the violator to a civil penalty as provided in this Code.

SECTION 13-59. – 13-75. – RESERVED.

ARTICLE 4. – MISCELLANEOUS PROVISION: VEGETATION, WEEDS AND REFUSE

SECTION 13-76. – RESTRICTIONS GENERALLY.

- (a) It shall be unlawful for any owner, lessee or occupant or any agent, servant, representative or employee of any such owner, lessee or occupant having control of any lot or land or any part thereof in the Town to permit or maintain on any such lot or land or on or along the sidewalk, street or alley adjacent to the lot or land between the property line and the curb or middle of the alley or for ten (10) feet outside the property line, if there is no curb, any growth of weeds, grass or other rank vegetation to a greater height than eight (8) inches, on the average, or any accumulation of dead weeds, grass or brush.
- (b) It shall be unlawful for any such person to cause, suffer or allow poison ivy, ragweed or other poisonous plants or plants detrimental to health to grow on any such lot or land in such manner that any part of such ivy, ragweed or other poisonous or harmful weed shall extend upon, cover, overhang or border any public place or to allow seed, pollen or other poisonous particles or emanations there from to be carried through the air into any public place.

State Law Reference— Abatement of public health nuisances, G.S. § 160A-193; permitting uncontrolled existence of plant pests, G.S. § 106-421.

SECTION 13-77. – DUTY OF OWNER OR OCCUPANT OF PROPERTY.

It shall be the duty of any owner, lessee or occupant of any lot or land to cut and remove or cause to be cut and removed all weeds, grass or other rank, poisonous or harmful vegetation as often as may be necessary to comply with the provisions of this article.

SECTION 13-78. – NOTICE UPON FAILURE OF OWNER TO ABATE.

If the provisions of this article are not complied with, the Town Clerk or other person designated by the Town Board of Commissioners shall serve written notice upon the owner, lessee or occupant or any person having care and control of any such lot or land to comply therewith.

SECTION 13-79. – ABATEMENT BY TOWN.

If the person upon whom the notice provided for in this article is served fails, neglects or refuses to cut and remove or to cause to be cut and removed such weeds, grass or other vegetation within ten (10) days after receipt of such notice or if no person can be found in the Town who either is or claims to be the owner of such lot or land

or who either represents or claims to represent such owner, the Town engineer or other person designated by the Town Board of Commissioners may cause such weeds, grass or other vegetation to be cut and removed.

SECTION 13-80. – RECOVERY OF TOWN’S COST OF ABATEMENT.

The actual cost of the cutting and removing of weeds, grass or other vegetation by the Town, plus five (5) percent for inspection and other additional costs in connection therewith, shall be certified by the Town Clerk or other person designated by the Town Board of Commissioners to the Town Tax Collector and shall thereupon become and be a lien upon the property upon which such weeds, grass and other vegetation were located and shall be added to and become and form a part of the taxes next to be assessed and levied upon such lot or land and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officer and in the same manner as taxes as provided for in G.S. § 160-234. Interest shall accrue at one-half of one (1) percent per month or fraction thereof from the date of completion of the work if the bill is not paid within thirty (30) days after completion. A lien shall attach as of the date of completion of the work and shall be settled or paid before any unpaid taxes or taxes of subsequent levies.

SECTIONS 13-81. – 13-85. – RESERVED.

ARTICLE 5. – MISCELLANEOUS PROVISION: GRAFFITI

SECTION 13-86. – PURPOSE AND INTENT.

The purpose and intent of this article are to provide for the expeditious removal of graffiti on private property within the Town. The Town Board of Commissioners declares such graffiti to be a nuisance by undermining (1) the quality of attractiveness and the aesthetic appearance of the Town, (2) the protection of property values, (3) the preservation of the livability and attractiveness of neighborhoods, and (4) the promotion of opportunities for economic development of the Town. In addition, the Town Board of Commissioners finds that such graffiti is frequently a means of communication by street gangs engaging in unlawful activity and is thereby injurious to the public welfare and safety.

SECTION 13-87. – DEFINITIONS.

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

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 private property, natural or manmade and that is exposed to public view, without the prior written consent of the property owner delivered to the person placing the graffiti on the property.

Private property means any privately owned real property, including any fixtures or improvements to such property, located within the Town's limits.

Property owner means the owner of the private property, such owner's manager or agent, or any other person in lawful control or possession of the property.

Removal of graffiti means the use of any method that has the effect of obscuring, erasing or otherwise removing the graffiti from public view.

SECTION 13-88. – FAILURE TO REMOVE GRAFFITI UNLAWFUL.

It is unlawful for any property owner to fail to remove, or fail to cause the removal of, graffiti in accordance with Section 13.89 of this article.

SECTION 13-89. – PROCEDURES FOR REMOVAL OF GRAFFITI.

- (a) Within thirty (30) days after the property owner discovers the existence of graffiti on his private property or within thirty (30) days after the property owner receives written notice from the Town by registered or certified mail, return receipt requested, of the existence of graffiti on the owner's property, whichever event occurs earlier, the property owner shall remove or cause the graffiti to be removed from his property in accordance with paragraph (b) of this section.
- (b) The property owner shall either (1) remove the graffiti at the owner's expense, or (2) authorize the Town to remove the graffiti at its own expense by signing an authorization of removal on a form prescribed by the Town Board of Commissioners, along with a release that holds the Town harmless from any liability to the owner on account of the Town's removal of the graffiti in accordance with the removal method specified in the authorization of removal.
- (c) In the event the property owner authorizes the Town to remove the graffiti at its own expense in accordance with subparagraph (b)(2) of this section, the Town shall not be required to rectify any area defaced by the graffiti more extensively than where the graffiti itself is located and shall not be required to restore the area where the graffiti is removed to the area's original condition (i.e., exact color, textures, etc.).

SECTION 13-90. – PENALTIES AND REMEDIES.

- (a) A violation of any provision of this article shall subject the offender to a civil penalty of one hundred dollars (\$100.00). If the offender fails to pay this penalty within ten (10) days after being cited for a violation, the Town may seek to recover the penalty by filing a civil action in the nature of a debt.
- (b) The Town may seek to enforce this article through any appropriate equitable action.
- (c) Each day that a violation continues after the offender has been notified of the violation shall constitute a separate violation.
- (d) The Town may seek to enforce this article by using any one or a combination of the foregoing remedies.

SECTION 13-91. – 13-100. – RESERVED.

ARTICLE 6. – MISCELLANEOUS PROVISION: MALT BEVERAGES AND UNFORTIFIED WINE

SECTION 13-101. – DEFINITIONS.

In addition to the common meanings of words, the following definitions shall be applicable herein [this article]:

Malt beverage means beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage except unfortified or fortified wine as defined by this Chapter, containing at least one-half (½) of one (1) percent (0.5%), and not more than fifteen (15) percent, alcohol by volume. Any malt beverage containing more than six percent (6%) alcohol by volume shall bear a label clearly indicating the alcohol content of the malt beverage.

Open container means a container whose seal has been broken or a container other than the manufacturer's unopened original container.

Public street means any highway, road, street, avenue, boulevard, alley, bridge, or other way within and/or under the control of the Town and open to public use, including the sidewalks of any such street.

Unfortified wine means any wine of sixteen percent (16%) or less alcohol by volume made by fermentation of grapes, fruits, berries, rice or honey; or by the addition of pure cane, beet or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice or honey that is contained in the base wine and produced in accordance with the regulations of the United States.

*See Town Charter; See State Law Reference— Malt beverage defined, G.S. § 18B-101(9); unfortified wine defined, G.S. § 18B-101(15); open container defined, G.S. § 18B-300(c).
(Ord. 121)*

SECTION 13-102. – CONSUMPTION ON PUBLIC STREETS AND MUNICIPAL PROPERTY PROHIBITED.

It shall be unlawful for any person who is not an occupant of a motor vehicle to consume malt beverages and/or unfortified wine on the public streets. Furthermore, it shall be unlawful for any person to consume malt beverages and/or unfortified wine on any property, whether located inside or outside the corporate limits, owned, occupied, or controlled by the Town, including, but not limited to, public buildings and grounds appurtenant thereto, municipal parking lots, public parks, playgrounds, recreational areas, tennis courts, and other athletic fields.

SECTION 13-103. – POSSESSION DURING SPECIAL EVENTS.

It shall be unlawful for any person to possess malt beverages and/or unfortified wine on public streets, alleys or parking lots which are temporarily closed to regular traffic for special events, unless the governing body adopts a resolution making other provisions for the possession of malt beverages and/or unfortified wine at the special event.

SECTION 13-104. –SAME; VIOLATION A MISDEMEANOR.

Violation of Section 13.102 or 13.103, above, shall be a misdemeanor punishable on conviction as provided in N.C. General Statutes 14-4, by a fine not exceeding fifty dollars (\$50.00) or by imprisonment not to exceed thirty (30) days.

SECTIONS 13-105. – 13-110. – RESERVED.

ARTICLE 7. – MISCELLANEOUS PROVISIONS: SPECIAL EVENTS; PERMITS

SECTION 13-111. – GENERAL.

The following shall guide the Town in regulating special events including, but not limited to, parades, carnivals, processions and assemblies of more than five (5) persons:

SECTION 13-112. – SPECIAL EVENTS PERMIT REQUIRED.

It shall be unlawful for any person, corporation, firm or organization to have or sponsor any of the activities referred to in the preceding within the town unless a special events permit therefor has been granted by the town.

SECTION 13-113. – PROCESS TO GRANT OR DENY A SPECIAL EVENTS PERMIT.

Applicants for a special events permit required by this chapter shall file with the town Clerk a sworn application in writing addressed to the town, on a form to be furnished by the town, which form shall require, but not be limited to, the following information:

- a) The name and address of the applicant specifying the entity which will conduct the proposed activities and the entity sponsoring such activity;
- b) The address of the location to be used and the dates and time that the activities will be permitted at such address;
- c) The charge that is to be made for the privilege of admission at such time and place;
- d) A statement as to whether the applicant, contractor or subcontractors have been convicted of any crime or charged with the violation of any crime involving moral turpitude or the violation of any provisions of this Code, state law or ordinance involving the sale and/or consumption of drugs and/or alcoholic beverages and, if so, a detailed statement of the nature and disposition of the charges;
- e) A statement that the applicant will furnish the Town Clerk with such additional information regarding the applicant and application as may be requested by the town.

SECTION 13-114. – TIME OF FILING APPLICATION.

The application for a special events permit required by the provisions of this chapter shall be filed with the town at least two (2) weeks prior to the date on which the proposed event is to be had, held or conducted. Notwithstanding the foregoing, the town may accept an application less than two (2) weeks prior to the date on which the proposed event is to take place if the manager concludes that sufficient time exists before the start of the event to comply with the other requirements of this Article.

SECTION 13-115. – INVESTIGATION – REQUIRED.

The town shall make, or cause to be made, an investigation of the applicant and application for a special events permit required by this chapter which shall include, but shall not be limited to, the character and morals of the applicant and the entertainers proposed to perform at the event. The town shall also require that the premises on which the event is proposed to be held or conducted be inspected by the following:

- a) The fire chief for compliance with all local and state fire laws;
- b) The building inspector for compliance with state building code regulations;
- c) The appropriate county health officials regarding the availability and condition of restroom facilities on the premises.

SECTION 13-116. – SAME; FEE

At the time the application for a special events permit as required by this chapter is filed, the applicant therefor shall pay a fee to the town in an amount to be determined by the Town Board of Commissioners from time to time and listed on the schedule of fees and charges maintained in the Clerk's office, which fee shall defray the cost of investigating the application and/or issuing the permit. The fee shall be retained by the town regardless of whether or not a permit is issued.

SECTION 13-117. – INSURANCE REQUIRED

Before a special event permit is issued under the provisions of this chapter, the entity that will actually conduct the activity for which the permit is sought shall give evidence of liability insurance of not less than one million dollars (\$1,000,000.00) and further evidence that this liability insurance shall also afford coverage to the sponsoring entity.

SECTION 13-118. – REVIEW OF APPLICATION BY TOWN BOARD OF COMMISSIONERS.

Unless the Town Board of Commissioners finds as a fact that the granting of the permit will be contrary to the health, safety, welfare or morals of the residents of the town, the permit shall be granted; otherwise, it shall be denied. However, if the application for a permit is denied, the Town Board of Commissioners shall cause to be recorded in the minutes of the meeting where the application is presented, the facts found by it supporting its decision that the granting of the permit would be contrary to the health, safety, welfare or morals of the residents of the town.

SECTION 13-119. – CONDITIONS FOR GRANTING.

The granting of a special events permit applied for under the provisions of this chapter by the Town Board of Commissioners may be conditioned upon the following:

- a) That the applicant make a payment for the permit, in an amount to be determined by the Town Board of Commissioners from time to time and listed on the schedule of fees and charges maintained in the Clerk's office, which shall be issued by the Clerk;

- b) That the applicant furnish adequate police protection, as recommended by the chief of police, and the payment of such fees as may be necessary to hire such personnel, approved by the chief of police, as the chief of police deems necessary to supervise and maintain law and order and public safety at the event;
- c) Such other reasonable conditions as may be imposed by the town for the protection of the health, safety, welfare or morals of the residents of the town.

SECTION 13-120. – REVOCATION.

Any person operating an event in violation of any applicable provision of this Code, state law or town ordinance, rule or regulation shall be subject to having the permit for such event revoked by the Town Board of Commissioners. Such permit may be revoked by the chief of police, police major or police duty officer after the owner or operator has been notified by such officer that the event is not being properly operated.

SECTION 13-121. – FAILURE TO PAY ADMISSION.

It shall be unlawful to see or attempt to see, in any manner whatsoever, any show, ball game or other public entertainment for which an admission is charged without paying the fee or price for such admission.

SECTION 13-122. –HOURS RESTRICTED FOR PARADES.

No parade shall be permitted between the hours of 11:30 a.m. and 2:00 p.m., except on Saturdays and Sundays, or between the hours of 5:00 p.m. and 6:00 p.m., local time, and provided that notwithstanding any of the foregoing provisions, no parade or procession shall commence or continue after sunset or commence before sunrise.

SECTION 13-123. –INTERFERENCE.

It shall be unlawful for any person to physically interfere with processions, marches or meetings or with the persons lawfully engaged therein in the use of any street, sidewalk or other public place or to address profane, indecent, abusive or threatening language or other fighting words to or at such participants which would tend to provoke such participants or others to a breach of the peace.

SECTION 13-124. –CONDUCT OF PARTICIPANTS.

It shall be unlawful for any person conducting or participating in any parade or meeting to address profane, indecent, abusive or threatening language or other fighting words to or at any person which would tend to provoke such person or others to a breach of the peace.

SECTION 13-125. – 13-130. –RESERVED.

ARTICLE 8. – SUPPLEMENTAL REGULATIONS

SECTION 13-131. – PURPOSE OF SUPPLEMENTAL REGULATIONS.

Many uses that would be permitted by right or through a conditional use permit have specific natures that require further explanation of how the district regulations apply to that use. Contained in this chapter are the supplemental regulations which have been established by the town. Readers may refer to the tables in each district description section for basic information on uses that are permitted by right or through conditional use permits. For any use which requires the issuance of a conditional use permit, the supplemental use regulations listed herein may be in addition to any other fair and reasonable conditions placed on the use by the Town Board of Commissioners. The conditions may impose greater restrictions on a particular use than those which are listed herein.

SECTION 13-132. – ACCESSORY BUILDINGS.

Accessory Buildings shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) Accessory buildings shall not be erected in any required front or side yards. In the rear yards, they shall be located not less than ten (10) feet from the side property line and not less than ten (10) feet from the rear property line.
- (b) Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to all regulations of this ordinance applicable to the main building.
- (c) An accessory building shall not occupy more than twenty-five (25) percent of a required rear yard, plus forty (40) percent of any non-required rear yard, provided that in no instance shall the accessory building exceed the ground floor area of the main building.
- (d) No detached accessory building shall be located closer than ten (10) feet to any other building.
- (e) There shall be no more than two (2) accessory buildings per lot.
- (f) No detached accessory building shall exceed the maximum height of the permitted building heights in each district.

SECTION 13-133. – ADULT AND SEXUALLY-ORIENTED BUSINESS CONCERNS.

Adult and Sexually Oriented Businesses shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) No adult or sexually oriented business shall be located within 750 feet of a residential zoning district, a church, a school, a hospital or nursing home, a public park or a day care center.
- (b) No adult or sexually oriented business shall be located within 1,000 feet of another such establishment.
- (c) No more than one adult or sexually oriented business shall be located in the same building, development or on the same lot.

SECTION 13-134. – ANIMAL CARE CLINICS; VETERINARIES; KENNELS.

Animal Care Clinics, Veterinaries, and Kennel shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) Outside kennels shall be located only in a side or rear yard.

- (b) Outside kennels shall be set back a minimum of fifty (50) feet from an adjoining street right-of-way or property line.
- (c) Exterior enclosures and runs must provide protection against weather extremes. Floors of runs must be made of impervious material to permit proper cleaning and disinfecting.
- (d) All animal quarters and runs are to be kept in a clean, dry, and sanitary condition.
- (e) Fencing surrounding exercise areas and/or runs must be of a sufficient height to prevent escape and must be buried as part of installation to prevent escape by digging beneath the fence posts.
- (f) Noise must be mitigated so as not to create a public nuisance for adjoining properties and must comply with all local noise regulations. This excludes typical noise from exercise or training while outdoors during the daytime during hours of operation.
- (g) The use shall comply with all state and local regulations including the licensing agency, the North Carolina Department of Agriculture.
- (h) For indoor kennels, the minimum setbacks shall be the same as for primary structures.
- (i) Indoor kennels in the Residential zoning district are permitted only as an accessory use to a single-family residential use. A minimum lot size of three (3) acres is required.

SECTION 13-135. – AUTOMOBILE SERVICE STATIONS; OTHER AUTO-RELATED BUSINESSES.

Automobile service stations shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) Air compressors, hydraulic hoists, pits, repair equipment, greasing and lubrication equipment, auto washing equipment and similar equipment shall be entirely enclosed within a building.
- (b) Certification by a registered engineer shall be required to ensure the prevention of petroleum and petroleum related product runoffs into the existing municipal storm drainage system.
- (c) All garbage and refuse shall be stored in mechanical loading containers located near the rear of the lot or building, but not less than twenty feet from any adjacent property lines unless the zoning officer determines that such a setback is not practicable. In such cases, the zoning officer may, as an alternative, require a lesser setback provided sufficient screening is installed.
- (d) All vehicular repair activities shall be conducted within an enclosed structure. Any vehicles partially dismantled or wrecked should be stored in an enclosed structure or a screened and buffered impoundment area located away from public view.
- (e) Entrances and exits:
 - a. Shall be a minimum of 100 feet, as measured along each side of the street on which they abut, from any school, public playground, church, hospital or health care facility, public library or institution for dependents or children.
 - b. Shall be a minimum of 100 feet from any residential district located on either side of the street on which the entrance abuts.
 - c. Shall be a minimum of 20 feet from any corner as measured from the point where the right-of-way lines meet or from the midpoint of the curve where a corner exists but is not an intersection (“L” curve in a street).
- (f) All areas subject to regular use by vehicles shall be paved.

SECTION 13-136. – BONA FIDE FARMS.

Bona fide farms in the Town are exempt from the provisions of this Ordinance as directed by NCGS 160A-360(K), as amended by S.L. 2011-363(H168).

SECTION 13-137. – CHILD CARE CENTERS; DAYCARES.

Child Care Centers and Daycares shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) There shall be a minimum of seventy-five (75) square feet of outdoor recreational space for each client. The outdoor recreational area shall be located in a side or rear yard and shall be enclosed by a fence of at least four (4) feet in height.
- (b) The hours of operation of a child care center shall be established by the issuance of a Conditional Use Permit in the Agricultural Residential, Open Space, Residential Mobile Home, and the RMH-1 zoning districts.
- (c) Minimum paved off-street parking spaces: Two spaces plus one for each employee.
- (d) Minimum paved off-street loading and unloading area: In addition to the off-street parking area, there shall be sufficient paved driveway to accommodate at least two autos at one time for the purpose of loading and unloading passengers.
- (e) The child care center shall have a specified plan for ingress and egress.
- (f) No child may remain on the premises of a child care center for more than twenty-four (24) consecutive hours in one (1) stay.

SECTION 13-138. – CLASS B AND C MOBILE HOMES PROHIBITED.

Class B and C Mobile Homes shall be regulated as to location in the following manner in addition to other requirements of this Ordinance.

- (a) No Class B or C Mobile Home shall be placed in the jurisdiction of this Ordinance nor shall any Class C Mobile Home that is existing within the jurisdiction of this Ordinance be moved, and placed at any other location within the jurisdiction of this Ordinance. Mobile homes must have been constructed after July 1, 1976, and meet HUD standards.

SECTION 13-139. – DISSTILLERIES AND MICROBREWRIES.

An establishment that meets the definition of a microbrewery or distillery shall be permitted provided it meets the requirements of NCGS 18B-1104 or 18B-1105, respectively. Tasting rooms are an accessory use to a microbrewery.

SECTION 13-140. – DRIVEWAYS.

No portion of any entrance driveway leading from a public street shall be closer than twenty (20) feet to the corner of any intersection measured from the right-of-way line. The width of any entrance driveway leading from the public street shall not exceed thirty (30) feet at its intersection with the curb or street line. No two driveways on a single lot leading from a public street shall be within (20) feet of each other measured along the right-of-way line.

SECTION 13-141. – DUPLEX RESIDENTIAL STRUCTURES.

A "Duplex" structure shall be allowed in all zoning districts in which single-family structures are allowed, provided that, no more than one structure on a single lot is permitted.

SECTION 13-142. – EXCEPTION TO BUILDING SETBACK REQUIREMENTS.

No building setback for dwellings need exceed the average for existing buildings adjoining on either side if such buildings are less than 200 feet apart, provided that the setback is not reduced to less than 10 feet.

SECTION 13-143. – FAMILY CARE HOMES AND GROUP HOMES.

Family Care Homes shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) Family Care Homes:

- a. Applications: The following information shall be submitted as part of the application:
 - i. A description of the type of persons to be cared for, the nature of the care to be provided, and the number of staff persons and specialists that will be involved.
 - ii. If structural alterations to existing structures or new construction is required, a complete description of the nature and extent of the alterations or new construction.
- b. Lot Size: A minimum lot size of two (2) acres shall be required. Additional acreage may be required by the Scotland County Health Department if a septic tank waste disposal system is proposed.
- c. Proximity to Other Facilities: Family care homes must be located no closer than one-half (½) mile from any other family care home.
- d. Appearance: The proposed structure shall have the appearance of a residential building or any proposed structural alterations shall be of a nature as to preserve the residential character of the building.
- e. Parking: Parking shall be at the sides and rear of the building. The number of spaces shall be calculated at: three (3) spaces for every five (5) beds except for uses exclusively serving children under 16 years of age, in which case, one (1) space for every three (3) beds shall be required.
- f. Licenses: Operators shall have a licensing permit or letter from the appropriate State agency that it will be issued.

(b) Definitions:

- a. **Family Care Home.** A facility designed to provide room, board and care for six (6) or fewer handicapped persons (adults or children) in a family environment. Handicapped persons include those with physical, emotional, or mental disabilities, but not those who have been deemed dangerous to themselves or others (see NC Gen Stat. §168-21).
- b. **Group Home.** An establishment qualified for a license by the State of North Carolina for the provisions of resident services to seven (7) or more individuals of whom one (1) or more are unrelated and who are handicapped, aged, disabled, or who are runaways, disturbed, or emotionally deprived children who are undergoing rehabilitation or extended care and who are provided services to meet their needs. This definition includes group homes for all ages.

SECTION 13-144. – FARM STANDS.

Farm stands shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) A farm stand shall only be used for the retail sale of produce and agricultural products on the property.

- (b) Farm stands shall only be located three hundred (300) feet from any intersection and forty (40) feet from the front property line.
- (c) Maximum area of a farm stand is three hundred (300) square feet.
- (d) Two temporary on-site signs are permitted. No sign permit is required. Signs shall comply with the following:
 - a. A maximum of sixteen (16) square feet each.
 - b. A maximum of six (6) feet.
- (e) Farm stands that sell anything other than fresh, farm-produced fruits, vegetables, nuts, and shell eggs are considered "retail food stores."
- (f) No food preparation at the farm stand is allowed.
- (g) No live animals within twenty (20) feet of food storage or sales area are allowed, except service dogs.

SECTION 13-145. – FLEA MARKETS.

Flea Markets shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) Hours of operation are limited to 8:00 am to 6:30 pm.
- (b) The sale of food for consumption on or off the premises will require licensing by the City and approval by the Department of Health.
- (c) The sale of firearms and/or alcohol is prohibited.
- (d) Permanent open-air flea markets are required to install and maintain fencing or landscaping along three (3) sides of the open market. A landscape plan describing both fencing and landscaping must be reviewed and approved by the Code Administrator.

(Ord. 120)

SECTION 13-146. – GOLF CARTS.

Golf carts shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) Purpose. The purpose of this chapter shall be to establish a golf cart ordinance within the Town of Wagram to promote the health, safety and welfare of persons operating golf carts within the Town.
- (b) Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DRIVER'S LICENSE- A valid license to operate a motor vehicle issued by North Carolina or any other state.

FINANCIAL RESPONSIBILITY- Liability insurance coverage on a golf cart in an amount not less than required by North Carolina law for motor vehicles operated on public highways in the State of North Carolina.

GOLF CART- A vehicle designed and manufactured for operation on a golf course for sporting recreation purposes and that is not capable of exceeding speeds of twenty miles per hour (MPH).

OPERATOR- Only persons 16 years of age or older and holding a driver's license may operate a golf cart.

- (c) Rules & Regulations

1. Carts may be driven on roads only from dawn to dusk unless the cart is equipped with two operating headlights (one on each side of the front of the golf cart) and two operating tail lights with brake lights (one on each side of the rear of the golf cart) which are visible from a distance of 500 feet.
 2. Carts must be equipped with a rear vision mirror and a rear triangle reflector on the same type required by North Carolina law.
 3. Carts must be equipped with seatbelts for the number of persons whom individual seating is installed and provided by the cart and each occupant shall have a seatbelt properly fastened about his or her body at all time the cart is in motion.
 4. Cart drivers must have a valid driver license in their name and must be 16 years of age or older.
 5. Cart drivers will stay to the far right of the travel portion of the road and yield to the right-of-way to overtaking vehicles.
 6. The number of occupants in a golf cart shall be limited to the number of persons for whom individual seating is installed and provided on the golf cart. The operator and all occupants shall be seated in the golf cart and no part of the body of the operator or occupant shall extend outside the perimeter of the golf cart while the cart is in motion.
 7. All applicable state laws shall be adhered to, including the possession and use of alcoholic beverages.
 8. The operator of the golf cart with all traffic rules and regulations adopted by the State of North Carolina and the Town of Wagram which govern the operation of motor vehicles.
 9. Carts will adhere to all traffic flow patterns and will operate on the right side of the roadway.
 10. Carts shall not operate on the sidewalks.
 11. Carts shall not be operated on private property without the permission and consent of the property owner.
- (d) Inspection and Fees. All carts operated on the streets of the Town of Wagram shall be inspected by the Wagram Police Department and issued a permit prior to operation. The inspection by the Chief of Police or his/her designee will cover the following safety requirements and every cart operating on the Town of Wagram streets shall have the following equipment and paperwork:
1. Permits/stickers issued to operators/owners of golf carts by the Wagram Police Department.
 2. Each owner shall have proof of ownership and liability insurance and a completed waiver of liability releasing the Town of Wagram, its employees and affiliates from all liability that may arise as a result of operating a golf cart inside the Town of Wagram. A current waiver of liability shall be on file with the Wagram Police Department and shall be renewed annually along with the permit.
 3. All carts shall meet the requirements or minimum standards of safety equipment as set forth in 74.03.
 4. All cart operators shall present a valid driver's license.
 5. Permits/stickers will be issued annually and are valid from July 1st of each year and expire June 30th of each year. The following fees shall apply:
 - i. Inspection by Police Department: \$25 annually (Includes permit/sticker)
 - ii. Re-inspection by Police Department: \$10 (If a cart fails initial inspection)
- (e) Lost or Stolen Permit/Stickers. Lost or stolen permit/stickers are the responsibility of the owner. A police report must be filed in the event of a lost or stolen permit/sticker. The Chief of Police will have the discretion in determining whether a permit/sticker may be re-issued in the instance. If no record can be found on a previous application or the receipt of a permit/sticker, the Chief of Police may direct the

applicant to reapply and to also resubmit any and all fees necessary before a replacement permit/sticker is issued.

- (f) Failure to Comply. Any person who operates a golf cart in the Town of Wagram and fails to receive or properly display a Town of Wagram permit/sticker will be subject to all applicable state laws, in addition to being in violation of this chapter.
- (g) Paperwork Maintained by Police Department. Golf cart owners must complete a registration form, waiver of liability form and provide a copy of the proof of liability prior to the golf cart being inspected. The complete forms and proof of insurance will be maintained by the Wagram Police Department.
- (h) Enforcement. It shall be the policy of the Wagram Police Department to issue a uniform citation against any person the office has probable cause to believe has violated this chapter.
- (i) Penalty. Any act constituting a violation of this chapter or a failure to comply with any of its requirements shall subject the offender, upon conviction, guilty of a misdemeanor and subject to a fine not to exceed \$50.00.

SECTION 13-147. – GOLF COURSES.

Golf Courses shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) All golf course greens, tees and fairways shall be set back at least fifty (50) feet from any property line.
- (b) All structures shall be setback at least one hundred (100) feet from any property line.

SECTION 13-148. – HAZARDOUS MATERIAL STORAGE AND TREATMENT.

Hazardous material storage and treatment shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) The use shall comply with the Federal Resource Conservation and Recovery Act of 1976, as amended, [PL 94-580] and the North Carolina Solid Waste Management Act, as amended, (Article 13B. G.S. 130-166.16) for design, siting, and materials to be stored and treated.
- (b) All storage, treatment, and loading facilities handling hazardous materials will be located at least 200 feet from any property line and at least 1,250 feet from any lot not located in an industrial district. The required buffer area shall contain a sufficient amount of natural or planted vegetation so that such facilities are screened visually from an adjoining property not located in an industrial district.
- (c) A security fence at least eight (8) feet in height with a minimum 9-gauge fabric and 3 strands of barbed wire shall surround all facilities for the storage and handling of hazardous materials.
- (d) Vehicular access to the operation will be provided only by way of a U.S. or N.C. numbered highway.
- (e) All surface water and groundwater on the property will be protected so as to minimize, to the greatest possible extent, the probability of contamination by hazardous materials.
- (f) All sanitary sewer systems on the property will be protected so as to minimize, to the greatest possible extent, the probability of contamination by hazardous materials.

SECTION 13-149. – HEALTH CARE FACILITIES AND HEALTH SERVICE FACILITIES.

Health care and health service facilities including hospitals shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) As defined by NCGS 131E-256, all health care facilities must be licensed by the State of North Carolina.

- (b) Health care facilities are subject to all local and federal regulations and the regulations of the North Carolina Administrative Code.
- (c) Where permitted in a residential district, the location, design, and operation of the health care facility must not alter the residential character of the neighborhood. The facility must retain a residential character, which must be compatible with the surrounding neighborhood. New buildings must be non-institutional in design and appearance and physically harmonious with the neighborhood in which they are located considering such issues as scale, appearance, density, and population.
- (d) One parking space for each two residents and one space per employee calculated on the number of employees on the maximum person shift are required.

SECTION 13-150. – HOME OCCUPATIONS.

Home Occupations shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) **Purpose:** It is the intent of this section to recognize that certain commercial activities can be operated within a residential dwelling with no or minimal adverse impact upon surrounding neighbors. It is also recognized that the conduct of other business operations as home occupations are desirable to selected occupants of dwellings in residential districts, however, such business activities may cause increased traffic, noise, etc., in the neighborhood but if controlled, may be compatible with residents of the neighborhood.
- (b) **Minor Home Occupation:** Minor home occupations are characterized as computer and telephone-based businesses where there is no or limited customer or client traffic into the home occupation. Examples of minor home occupations include, but are not limited to, real estate agent, insurance sales agents, consultants, financial planners, stockbrokers, etc. *Minor home occupation permitted by right.* A minor home occupation meeting the definition and standards of this section shall be permitted by right only in those districts where stated. The standards are as follows:
 - 1. Minor home occupations shall be allowed only in principal use single-family dwellings.
 - 2. No person other than members of the family residing on the premises shall be engaged in such occupation.
 - 3. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in conducting the home occupation.
 - 4. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conducting of such home occupation other than one sign, not exceeding four square feet in area, non-illuminated, and mounted flat against the wall of the principal building.
 - 5. No traffic shall be generated by such home occupation in greater volumes than would be normally expected in a residential neighborhood, and any need for parking generated by the conducting of such home occupation shall not exceed normal single family parking requirements.
 - 6. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal

senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.

- (c) Major Home Occupations: Major home occupations are characterized as those businesses which provide customer or client services on pre-established or published schedule of store or services hours or provide such services on a regular scheduled basis in the home occupation. Example businesses include the sales of any goods or the provision of services and includes, but are not limited, to sales of health products and vitamins, cookware, novelty items (typically made by the resident of the home occupation), barbershops and beauty shops, massage and physical therapy centers, doctor and dentist offices, offices of lawyers and similar professions, and other similar business. Reasonable conditions may be placed on the business operation to assure compatibility of the business operation with neighborhood residential needs.

Conditional Use Permits are required for major home occupations. A major home occupation meeting the definition and standards of this chapter shall be permitted upon issuance of special land use permit by the planning commission in only those districts where stated. The standards are as follows:

1. No person other than members of the family residing on the premises and one non-related person living elsewhere shall be engaged in such occupation.
2. The use of the dwelling unit and/or accessory use building for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and the use of the residence shall not occupy more than 25 percent of the floor area of the dwelling unit, and any accessory use structure shall not be greater than 50 percent of the floor area of the residence.
3. There shall be no change in the outside appearance of the building or accessory use structure or other visible evidence of the conducting of such home occupation other than one sign, not exceeding four square feet in area, non-illuminated, and mounted flat against the wall of the principal or accessory use building.
4. No traffic shall be generated by such home occupation of a volume that would disrupt the residential neighborhood, and any need for parking generated by the conducting of such home occupation shall be met by the provision of off-street parking in an amount prescribed in article VII for the commercial business activity to be conducted as the home occupation in the side or rear yard located to the rear of the front building line of the residential building or in accordance with any special land use permit issued by the Town.
5. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises that causes a change of transmission voltage off premises.

Internet Cafes and Computer Gaming Establishments shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

Internet cafes and gaming establishments have been banned by current North Carolina Law in a decision upheld by the North Carolina Supreme Court in December 2012.

SECTION 13-152. – ITENERANT MERCHANTS AND FOOD VENDORS.

Itinerant merchants and food vendors shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) No itinerant merchant, peddler, food vendor or flea market operator shall conduct any business of any kind whatsoever within the corporate limits of the Town of Wagram without first obtaining from the Town a permit to do so.
- (b) Itinerant merchant, peddler, food vendor or flea market operator shall be defined as a person, persons or entity which does not have a regular City Privilege License and does not own a properly zoned area within the Town of Wagram to conduct a business on a permanent basis or who does not have a long-term lease of a similar property for the aforesaid purpose.
- (c) Food vendor shall mean a seller of farm produce, fruits, vegetables, honey, hams, sausage, bacon or the like in an unprepared state.
- (d) Applications for said permit shall be on a form as developed by the Town and approved by the Town Attorney, but at a minimum shall require:
 1. Name, address and telephone number of the applicant and any proposed employees or representatives of the applicant.
 2. A description of the items to be offered to the public for sale.
 3. A summary of how, in the general course of business, these items are obtained by the applicant for resale.
 4. A listing, with street addresses of all locations in which the applicant has conducted business in the last year (inside or outside of the State of North Carolina).
 5. A description with street address of the proposed location for said activity within the Town, including written and signed authorization of the property owner for the applicant to conduct said activity on his or her property.
 6. Such information, as is allowed by law, to assist in the conduct of a criminal background investigation of the applicant or his proposed employees or representatives.
 7. A detailed explanation of the applicant's accounting procedures as it relates to the collection and payment of sales tax.
 8. A bond by a licensed surety or a cash deposit in the amount of \$10,000.00 to protect the public from fraud, in such a form as is approved by the Town Attorney, which shall remain in effect for three years after last conduct of business within the Town.
- (e) An application fee shall be paid at the time the application is made to cover the expenses of reviewing the application and administering the ordinance as it relates to the applicant.
- (f) The following activities are specifically exempted from this ordinance: Any food vendors operating within a government established farmer's market.
- (g) Food carts, trucks, or trailers which sell prepared foods in various locations in Town, Mobile Prepared Food Vendors, must:

1. Be approved by the Local Board of Health. Said approval must include, but not limited to, inspection of any cooking, food handling or washing equipment, review and approval of the employee's food handling and sanitation training and review and inspection of the food vendor's preparation and storage methods.
 2. Have a permanent food preparation and equipment cleaning facility within the Town.
 3. Before serving any food, shall pay a \$250.00 annual license fee to cover the expenses of reviewing the application and administering the ordinance as it relates to the applicant.
 4. Have restaurateur and general liability insurance not less than \$50,000 with a deductible of no less than \$500.00.
 5. Fill out an application form developed by the Town and approved by the Town Attorney providing the following information:
 - i. Name, address and telephone number of the applicant and any proposed employees or representatives of the applicant.
 - ii. A description of the items to be offered to the public for sale.
 - iii. A listing, with street addresses of all locations in which the applicant has conducted business in the last year (inside or outside of the State of North Carolina).
 - iv. Such information, as is allowed by law, to assist in the conduct of a criminal background investigation of the applicant or his/her proposed employees or representatives.
 - v. A detailed explanation of the applicant's accounting procedures as it related to the collection and payment of sales tax.
- (h) Any denial of a permit by the Town may be appealed to the Town Board of Commissioners in writing by the applicant, addressed to the Mayor, if the same is done within 30 days of the denial.
- (i) Nothing in ordinance shall prohibit a local charitable, civic, school or church group from engaging in any such activity regulated herein if conducted only on an annual or semi-annual basis.
- (j) Violation of this ordinance is a misdemeanor and may be enforced by any means available to the Town for enforcement of its ordinances: criminal, civil or equitable.

SECTION 13-153. – LANDFILLS AND INCINERATORS.

Landfills and incinerators shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) No refuse shall be deposited and no building or structure shall be located within 150 feet of the nearest property line.
- (b) The operation of a landfill or incinerator shall be in accordance with applicable State regulations.

SECTION 13-154. – MANUFACTURED HOME SALES LOTS/OFFICES.

Manufactured Home Sales Lots and Offices shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) The manufactured homes located on a sales lot shall not occupy an area greater than fifty (50) percent of the total lot area.
- (b) Individual manufactured homes located on a sales lot shall be set back fifty (50) feet from the public street right-of-way.

SECTION 13-155. – MULTIFAMILY HOUSING.

Multifamily housing, also known as housing with three or more dwelling units, is permitted as a conditional use in designated Residential districts. Supplemental regulations governing multifamily housing include the following:

(a) Dimensional requirements:

<u>Minimum lot area</u>	<u>20,000 square feet (In no case may more than ten (10) dwelling units be constructed per gross acre)</u>
<u>Lot Size Minimum Area/Unit</u>	<u>5,000 square feet</u>
<u>Minimum lot width</u>	<u>100 feet</u>
<u>Minimum lot depth</u>	<u>120 feet</u>
<u>Minimum front yard setback</u>	<u>25 feet</u>
<u>Minimum side yard</u>	<u>15 feet</u>
<u>Minimum rear yard</u>	<u>25 feet</u>
<u>Maximum lot coverage</u>	<u>25 percent</u>
<u>Maximum building and structure height</u>	<u>35 feet</u>

(b) Accessory buildings. Accessory buildings must be located in the rear yard and not less than ten (10) feet from any adjoining property line and not less than twenty (20) feet from any street right-of-way. Detached carports and garages must be located in the side or rear yard and must meet all required setbacks for the principal building.

(c) Above and In-Ground Swimming Pools. Swimming pools must be located in the rear yard and not less than ten (10) feet from any adjoining property line and not less than twenty (20) feet from any street right-of-way

(d) Corner Lots. On corner lots the side yard abutting the side street shall not be less than thirty (3) feet. All accessory buildings and construction, not including fences and walls, on the side of the lot abutting the side street shall not be closer to the lot line abutting on that side street than the distance required for front yards of lots fronting on such side street.

(e) Corner Visibility. No planting, fence, or other obstruction to visibility of vehicles shall be erected, maintained, or allowed to exist within the range of three (3) to seven (7) feet above street level closer to the intersection of any two (2) street lines than fifteen (15) feet.

(f) Off-Street Parking. Off-street parking shall be as required in Article X.

- (g) Signs. Signs shall be as required or permitted in Article XI.
- (h) Zero Lot Lines. Where individual dwelling units are to be sold in a multi-family building and it is desired to deed the land under the dwelling unit to the purchaser, such as in the case of town houses or patio homes, zero lot line lots may be used, as long as the required yards are maintained around the building. In such a case, the individual lots are not required to meet the above stated dimensional requirements, but the development becomes a subdivision and a planned unit development and must be approved as such under the subdivision regulations as well as the zoning ordinance.

SECTION 13-156. – PARKING AND STORAGE OF AUTOMOBILES WITHOUT CURRENT PLATES.

Automotive vehicles or trailers of any kind or type without current license tags shall not be parked or stored in any residentially zoned property other than in a completely enclosed building.

SECTION 13-157. – SATELLITE DISH ANTENNA.

Satellite Dish Antenna shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) Only one (1) satellite dish antenna shall be allowed per premises in residential districts.
- (b) In all zoning districts, a satellite dish antenna shall be considered an accessory structure and shall meet the setback requirements for accessory structures.
- (c) In all nonresidential districts, a satellite dish antenna may be installed on the roof of the principal structure. In all residential districts, a satellite dish antenna may be installed on the roof of the principal residence or accessory structure provided the overall diameter of the satellite dish antenna is three feet or less.
- (d) A satellite dish antenna shall be permanently ground or roof mounted (where permitted), and no satellite dish antenna shall be installed on a portable or moveable structure except to transport a satellite dish antenna to a permanent site or to provide a temporary on-site satellite dish antenna for testing purposes not to exceed seven days in duration.
- (e) No satellite dish antenna shall exceed an overall diameter of 12 feet nor an overall height of 20 feet above existing grade when located on the ground, and when located on the roof of a building in a nonresidential district, no satellite dish antenna shall exceed more than 10 feet above the highest point of the roof or parapet wall. When located on the roof in a residential district, no satellite dish antenna shall extend more than four feet above the highest point of the roof.
- (f) All satellite dishes shall be installed in compliance with FCC regulations.

SECTION 13-158. – STORAGE FACILITIES THAT ARE SELF-SERVICE.

Storage Facilities that are self-service shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) Self-service storage facilities shall be limited to dead storage (such as furniture or files) only.
- (b) No outside storage will be permitted.

- (c) The sale of any item from or at a self-service storage facility shall be strictly prohibited. It shall be unlawful for any owner, operator or lessee of any self-service storage facility or any portion thereof to offer for sale, or to sell any item of personal activity of any kind whatsoever other than leasing of the storage units.
- (d) The vehicle accommodation area of such use shall be improved with either asphalt or concrete.
- (e) A driveway aisle for self-service storage shall be a minimum of twenty-four (24) feet. A driveway aisle where access to storage units is only one side of the aisle may be twenty (20) feet in width.
- (f) All outdoor lights shall be shielded to direct light and glare only onto the self-service storage premises and may be of sufficient intensity to discourage vandalism and theft. Lighting and glare shall be deflected, shaded, and focused away from all adjoining uses.

SECTION 13-159. – STREET ACCESS FOR LOTS WITH LIMITED ACCESS TO A PUBLIC STREET.

No building shall be erected on a lot which does not abut a public street for a distance of at least 20 feet, provided that in a designated shopping center in a commercial district, or a planned project in a residential district, a building may be erected adjoining a parking area or other dedicated open space, used in common with other lots.

SECTION 13-160. – SWIMMING POOLS.

Swimming pools shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) Pool construction shall conform to the North Carolina State Building and Plumbing Codes. Any accessory building which houses pumping and filtering equipment must conform to the provisions of this Ordinance. Further provided that all swimming pools, inclusive of paved decks and all accessory buildings shall be located no closer than eight (8) feet to any property line.
- (b) No swimming pool shall be located in the front yard of any residence.
- (c) Fiberglass and plastic pools may be permitted provided the same meet accepted safety and construction standards.
- (d) The Public Works Department may regulate the hours for filling of pools and no pool shall be drained during periods of rainfall.
- (e) Owners of pools shall regulate their use in such a manner as not to create undue noise or disturbance.
- (f) Construction Requirements.
 - a. No exposed electric wires shall be nearer than five (5) feet from the water's edge, nor shall any exposed and permanently installed, electric wire within twenty-five (25) feet from the water's edge of the pool be less than ten (10) feet above the ground, nor shall wires of any kind cross or be over the water surface unless otherwise approved by the Town Inspector.
 - b. There shall be no cross-connection of the town water supply with any other source of water supply for the pool. The line from the town water supply to the pool shall be protected against back flow of water by means of an air gap and shall discharge at least six (6) inches above the maximum high water level of the make-up tank or the pool.
 - c. The drain line for the pool may be connected to the town sewer system if the following provisions are complied with:
 - i. Pool drain shall be connected to the storm water, if one is available.
 - ii. Where a storm sewer is not available, the pool drain may be connected to a sanitary sewer or a combined sewer subject to the approval of the Public Works Department provided an air gap discharge connection is installed.

- iii. All swimming pools to be constructed or which are already constructed shall be enclosed by a fence which shall be at least four (4) feet in height. The gates shall be of a self-closing and latching type with the latch on the inside of the gate, not readily available for children to open. Provided, however, that if the entire premises of the residence is enclosed, then this provision may be waived by the Code Administrator upon inspection and approval of the residence enclosure.

(Ord. 110)

SECTION 13-161. – TATTOO PARLORS.

Tattoo parlors shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) No Tattoo Parlor shall be located within 1,000 feet of a church, school, playground or other Tattoo Parlor and a minimum of 500 feet of road frontage shall separate all Tattoo Parlors from residential zoning districts.
- (b) Signage for Tattoo Parlors shall meet all requirements for signage in the General Business Zoning District (GB District).
- (c) Tattoo Parlors shall only be permitted to conduct business between the hours of 8:00 am and 11:00 pm.

SECTION 13-162. – TEMPORARY USES- GENERALLY.

Temporary uses shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) All temporary use/sales require the issuance of a zoning permit. The Code Administrator may impose requirements in the zoning permit intended to ensure compliance with this Ordinance.
- (b) A zoning permit for a temporary use may also authorize one temporary sign, not to exceed 40 square feet in sign surface area, associated with the temporary use and conforming to the Town's Sign Ordinance.
- (c) Temporary sales are permitted on CB, GB and GB-1 zoned property provided that no more than four (4) events occur within a 365-day period on an individual parcel. The operator of each temporary sales event shall have the written permission of the property owner or manager of the principal business located on the property on which the temporary sale is to be conducted.
- (d) Temporary uses for which the primary purpose is not the sale of commodities shall have a maximum specified time (specified by zoning permit) limit. Such temporary uses shall include assembly of people for entertainment, holiday festivals, social, political, religious or similar activities. Temporary uses, described in this section, which include the sale/use of alcoholic beverages shall submit all ABC permits with the application for a zoning permit. No permanent building shall be located on any lot for the exclusive purpose of operating any temporary use(s). Temporary uses may be unlike the customary or usual activities generally associated with the property where the temporary use is to be located. Any use intended for temporary and limited duration, operated as an accessory or principal use, shall be subject to applicable location, setback, parking, land use and other standards for the district in which it is located.
- (e) Temporary sales conducted on the grounds of a church, synagogue, temple, or other religious building or schools/colleges for the purpose of raising funds for the support of the principal use are considered accessory services. The religious institution or school/college must request the zoning permit.
- (f) Temporary buildings or modular offices shall not exceed 60 square feet in area and shall contain approved restroom facilities.

(g) Schedule for Permits and Permit Renewals shall be as shown in the table below:

<u>Type of Temporary Use</u>	<u>Minimum Length of Permit</u>	<u>Lapse of Time Before Renewal</u>	<u>Maximum Days Allowed Per Year</u>
<u>Agricultural Products including farm produce, jams, jellies, pickles and the like</u>	<u>7 days</u>	<u>None</u>	<u>180 days</u>
<u>Christmas Trees, Pumpkins and Other Holiday Season Live Items</u>	<u>45 days</u>	<u>None</u>	<u>90 days</u>
<u>Classroom Buildings</u>	<u>Two years</u>	<u>None</u>	<u>365 days</u>
<u>Contractor Office, Equipment Sheds, Laydown yards</u>	<u>30 days</u>	<u>None</u>	<u>365 days</u>
<u>Fireworks Sales</u>	<u>30 days</u>	<u>60 days</u>	<u>60 days</u>
<u>Real Estate Office</u>	<u>6 months</u>	<u>None</u>	<u>365 days</u>
<u>Yard Sales</u>	<u>2 days</u>	<u>5 days</u>	<u>60 days</u>

SECTION 13-163. – TEMPORARY HEALTH CARE STRUCTURES.

Temporary Health Care Structures shall be regulated as to location in the following manner in addition to other requirements of this Ordinance in accordance with NC Gen Stat. § 160A-383.5.

(a) Definitions.

Activities of daily living. Bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.

Caregiver. An individual 18 years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first or second degree relative of the mentally or physically impaired person for whom the individual is caring.

First or second degree relative. A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step, and in-law relationships.

Mentally or physically impaired person. A person who is a resident of this State and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in this State.

Temporary family health care structure. A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that:

- i. is primarily assembled at a location other than its site of installation,
- ii. is limited to one occupant who shall be the mentally or physically impaired person,
- iii. has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

(b) Structure is Permitted Accessory Use.

1. The town shall consider a temporary family health care structure used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the

caregiver as the caregiver's residence as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings.

2. The town shall consider a temporary family health care structure used by an individual who is the named legal guardian of the mentally or physically impaired person a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings in accordance with this section if the temporary family health care structure is placed on the property of the residence of the individual and is used to provide care for the mentally or physically impaired person.
- (c) One Structure per lot. Only one temporary family health care structure shall be allowed on a lot or parcel of land. The temporary family health care structure shall not require a special use permit or be subjected to any other local zoning requirements beyond those imposed upon other authorized accessory use structures, except as otherwise provided in this section.
 - (d) Setbacks. Temporary family health care structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure.
 - (e) Permit Required. Any person proposing to install a temporary family health care structure shall first obtain a permit from the town.
 - (f) Annual Re-certifications. Annually, on the anniversary of the permit date, and for as long as the structure remains on the property, the owner or caregiver must provide evidence of compliance continued need for the structure. The evidence may involve the inspection by the town of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation, and annual renewal of the doctor's certification.
 - (g) Connection to Utilities. Any temporary family health care structure installed under this section may be required to connect to any water, sewer, and electric utilities serving the property and shall comply with all applicable State law, local ordinances, and other requirements, including Part 5 of this Article, as if the temporary family health care structure were permanent real property.
 - (h) Signage. No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.
 - (i) Removal of Structure. Any temporary family health care structure installed pursuant to this section shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used, or may be reinstated on the property within 60 days of its removal, as applicable.

- (j) Revocation of Permit. The town may revoke the permit granted pursuant to subsection (e) of this section if the permit holder violates any provision of this section or G.S. 160A-202. The town may seek injunctive relief or other appropriate actions or proceedings to ensure compliance with this section or G.S. 160A-202.
- (k) Tax. Temporary family health care structures shall be treated as tangible personal property for purposes of taxation.

SECTION 13-164. – TEMPORARY STORAGE FACILITIES.

Temporary Storage facilities shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) Dumpsters or temporary storage facilities incidental to a natural disaster, or construction with a valid building permit, shall be exempt from these regulations.
- (b) Temporary storage facilities intended to be in place for greater than thirty (30) days shall require a zoning permit.
- (c) With the exception of the Industrial (I) zoning district, temporary storage facilities may be placed on a property a maximum of any ninety (90) day period during one calendar year from its initial placing on a property.
- (d) No temporary storage facility shall encroach into any public right-of-way.
- (e) Mobile homes and travel trailers may not be used for storage.
- (f) No temporary storage facility shall be used as living space and/or a permanent accessory building.

SECTION 13-165. – TIRE SALES; TIRE STORAGE.

Tires and disposal of tires shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) All properties not in the business of selling tires shall:
 - 1. Store tires in an enclosed building or, if stored outdoors, tires shall be screened from view of the public right-of-ways and adjacent properties.
 - 2. Protect tires stored outside from rain so that a buildup of water which is a haven for mosquitos is not created.
 - 3. Store no more than five (5) tires at one time.
- (b) Commercial and industrial businesses which sell new and/or used tires shall:
 - 1. Store tires in an enclosed building or, if stored outdoors, tires shall be screened from view of the public right-of-ways and adjacent properties.
 - 2. Protect tires stored outside from rain so that a buildup of water which is a haven for mosquitos is not created.
 - 3. Store no more than one hundred fifty (150) tires at one time.
 - 4. Mark all tires stored outside with the date that tire was placed in storage so that the date can be clearly seen by an inspector.
 - 5. Maintain stored tires for no more than 30 days.
 - 6. Stack tires neatly no more than eight (8) tires high.

SECTION 13-166. – UNATTENDED DONATION CONTAINERS.

Unattended Donation Containers shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) Appearance: The container shall be waterproof, covered by a sturdy lid, and made of a durable materials such as metals or wood. The name and phone number of the party responsible for maintenance shall be posted on the container.
- (b) Location: Such containers are only permitted at the operational site of a company or organization that collects used clothing or other household materials for resale or donation as a primary business function.
- (c) Existing Containers: Prohibited donation containers that exist at the time this section is adopted shall be removed within sixty (60) days of adoption.

SECTION 13-167. – WALLS, LANDSCAPE SCREENINGS AND FENCES.

Fences and walls shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

- (a) Residential Districts: Fences and walls may be permitted in any required yard, or along the edge of any yard, subject to the following limitations:
 - 1. Fences and walls in the rear yard of residential lots shall not exceed six (6) feet in height.
 - 2. Fences and walls in front and side yards shall not exceed four (4) feet in height.
 - 3. Fences and walls shall be set back six (6) inches from the property line.
 - 4. The material of the fence or wall shall be chain link, privacy screening, wrought iron, wood, stucco, brick, stone or a combination of these.
 - 5. Fences along any property line shall not be constructed so that they obstruct sight distance at a driveway for residents or adjoin property owners or at intersections.
 - 6. The setback requirements contained in these regulations shall not prohibit any necessary retaining wall nor prohibit any planted buffer strip, fence or wall in any district.
 - 7. These restrictions shall not apply to a bona fide farm nor to recreational facilities.
- (b) All other districts:
 - 1. Fences and walls in the rear yard of residential lots shall not exceed six (6) feet in height.
 - 2. Fences and walls shall be set back six (6) inches from the property line.
 - 3. The material of the fence or wall shall be chain link, privacy screening, wrought iron, wood, stucco, brick, stone or a combination of these.
 - 4. If the area to be fenced is to be used primarily for storage, then the chain link fences constructed along streets or public rights-of-way shall have slats installed to screen the area from public view.
 - 5. Fences constructed on corner lots shall be angled at street intersections, so that adequate sight distance is provided.
 - 6. These restrictions shall not apply to a bona fide farm nor to recreational facilities.
- (c) Signs:
 - 1. Permanent signs are not allowed on fences in the commercial districts.

(Ord. #99-01, 1-5-1999)

- (d) Landscape Screening Required Where Districts Abut One Another. Where a multi-family, business/commercial, office and professional or industrial zoning district abuts directly upon a single family residential zoning district, or a residentially developed property in any zoning district, a landscaped

buffer as defined below, shall be provided and maintained along its entire length by the users of the said multiple family business, commercial, or industrial zoned or developed property. Such buffer shall be a strip of land not less than 20 feet in width which is planted and maintained with evergreens such as spruce, pines or firs from a five- to six-foot initial height, so as to create a permanent fully screened buffer; or a hedge of evergreens not less than four feet in height, so as to create a permanent fully screened buffer. All plants, when initially planted shall reach such required height within five years of approval of the site plan by the Town. The remainder of the landscaped area which is not planted with the aforementioned stock shall be planted in a permanent well-kept lawn. All landscaping shall be continuously maintained in a healthy growing condition, neat and orderly in appearance. Such walls or protective screening for shielding off-road parking or storage areas shall not be required when such areas are located more than 200 feet from such abutting residential property lines or zoning district line.

SECTION 13-168. – YARD SALES

(1) Definitions. For the purposes of this section, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in plural number include the singular number, and words in the singular number, the plural number. The word “shall” is always mandatory and not merely directory.

Personal Property shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

Yard Sale shall mean and include all general sales, open to the public, conducted from or in a residential zone, as defined by the zoning ordinance, for the purpose of disposing of personal property including, but not limited to, all sales entitled “garage”, “lawn”, “yard”, “attic”, “porch”, “room”, “backyard”, “patio”, “flea market”, or “rummage” sale.

(2) Permit Required. No yard sale shall be conducted unless and until the individual(s) desiring to conduct such sale shall obtain a permit from the Town of Wagram at least five (5) calendar days in advance of the proposed sale. Members of more than one (1) residence may join in obtaining a permit for a yard sale to be conducted at the physical address of one of them.

(3) Written Statement Required. Prior to the issuance of any yard sale permit, the individual(s) conducting such sale shall file a written statement with the Town of Wagram, setting forth the following information:

1. Full name and physical address of applicant. If the yard sale is sponsored by more than one party, then the name and physical address of each party.
2. The physical address at which the proposed yard sale is to be held.
3. The date(s) when the sale shall be held.
4. An affirmative statement that the property to be sold is owned by the applicant as his or her own personal property and was neither acquired nor consigned for the purpose of resale.
5. The signature of the record owner, agent, or lessee of the real property upon which the proposed yard sale is to take place.
6. Acknowledgement that a copy of the Town of Wagram Sign Ordinance has been received and reviewed by the applicant.

(4) Permit Fee. There shall be an administrative processing fee for the issuance of each yard sale permit shall be established from time to time in the Town’s Fee Schedule.

(5) Permit Conditions. The permit shall set forth and restrict the time, date, and physical address of such yard sales. No more than three (3) such permits for no more than two (2) consecutive days only for each permit may be issued to one (1) physical address and/or family household during any calendar year. If members of more than one (1) physical address and/or family household join in requesting a permit, then such permit shall be considered having been issued for each and all such physical address and/or family household.

(6) Hours of Operation. Such yard sales shall be limited in time to no more than the daylight hours of the day(s) for which the permit is granted.

(7) Exceptions.

- (a) If the yard sale is not held because of inclement weather: If a yard sale is not held on the date for which the permit is issued or is terminated during the day of the sale because of inclement weather conditions, and an affidavit by the permit holder to this effect is submitted, the Town of Wagram may issue another permit to the applicant for a yard sale to be conducted at the same location within thirty (30) days from the date when the sale was to be held. No additional permit fee will be required.

(8) Pre-Permit Investigation. Before issuing a permit, a representative from the Town of Wagram may conduct an investigation as may reasonably be necessary to determine if there is compliance with this ordinance.

(9) Display of Permit. Any permit in possession of the holder or holders of a yard sale shall be posted on the premises in a conspicuous place so as to be seen by the public and the representative from the Town of Wagram.

(10) Advertising; Signs.

- (a) Signs Permitted: Only the following signs may be displayed in relation to a pending yard sale:
- a. A yard sale shall be allowed one (1) sign on the physical location of the yard sale, provided the sign does not exceed forty-two (42) inches in height, four (4) square feet per side, and eight (8) square feet total aggregate.
 - b. A yard sale shall be allowed two (2) additional directional signs located off-premises provided written permission to erect said signs is received from the property owners upon whose property such signs are to be placed and the signs do not exceed forty-two (42) inches in height, four (4) square feet per side and eight (8) square feet total aggregate.
 - c. All other usage of signs shall be done in compliance with the Town of Wagram Sign Ordinance.
- (b) Time Limitations: No sign or other form of advertisement (excluding commercial media advertisement), shall be exhibited for more than three (3) days prior to the day such sale is to commence.
- (c) Removal of Signs: Signs must be removed at the close of the yard sale activities or by the end of daylight, whichever first occurs.

(11) Public Nuisance. The individual to whom such permit is issued and the owner or tenant of the premises on which the yard sale or activity is conducted shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of such sale or activity. No such individual shall permit any loud or boisterous conduct on said property nor permit vehicles to impede the passage of traffic on any roads or streets in the area of such premises. All such individuals shall obey the reasonable orders of any member of the

Wagram Police Department or North Scotland Fire Department in order to maintain the public health, safety and welfare.

(12) Inspection, Arrest Authority of Inspector. A Town of Wagram Police Officer or any other official designated by the Town of Wagram to make inspections under the licensing or regulating ordinance or to enforce the same, shall have the right of entry of any premises showing evidence of a yard sale for the purpose of enforcement or inspection and may close the premises from such a sale, or authorize arrest of any individual who violates the provisions of this section.

(13) Parking. All parking of vehicles shall be done in compliance with all applicable laws and ordinances. Further, the Wagram Police Department may enforce such temporary controls to alleviate any special hazards and/or congestion created by any yard sale.

(14) Revocation and Refusal of Permit

- (a) *False Information:* Any permit issued under this article may be revoked or any application for issuance of a permit may be refused by the Town of Wagram if
- (b) the application submitted by the applicant or permit holder contains any false, fraudulent or misleading statement.
- (c) *Conviction of Violation:* If any individual is convicted of an offense under this article, the Town of Wagram is not to issue such individual another yard sale permit for a period of two (2) years from the time of conviction.

(15) Persons Exempted. The provisions of this section shall not apply to or affect the following:

- (a) Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
- (b) Persons acting in accordance with their powers and duties as public officials.
- (c) Any person or organization deemed exempted by the elected Board of the Town of Wagram, after good cause shown.

(16) Separate Violations. Every article sold and every day of a sale conducted in violation of this ordinance shall constitute a separate offense.

(17) Violation of Yard Sale Ordinance a Misdemeanor. Any person who shall violate any provision of this Ordinance shall be subject to civil penalties and well as conviction of a Class 3 Misdemeanor.

(18) Severability. It shall be unlawful for anyone to hold yard sales at any residence or within any residential zoning district of the Town of Wagram except in compliance with the following regulations. Violations of the Town's yard sale ordinance shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00) to be recovered by the town. Violators shall be issued a written citation which must be paid within seventy-two hours. Each day's continuing violation of the ordinance shall be a separate and distinct offense

(19) State Law Reference. Authority is given to municipalities to regulate the provisions of this ordinance under Chapter 160A-178 of the North Carolina General Statutes which state that a city may by ordinance regulate, restrict or prohibit the solicitation of contributions from the public for any charitable or eleemosynary purpose, and also the business activities of itinerant merchants, salesmen, promoters, drummers, peddlers, flea market operators and flea market vendors or hawkers.

(Ord. June 27, 2013)

SECTION 13-169. – 13-175. –. RESERVED.

ARTICLE 9. – MISCELLANEOUS PROVISIONS: POSTING OF PROHIBITIONS FOR CARRYING CONCEALED WEAPONS

SECTION 13-176. –POSTING OF SIGNS PROHIBITING THE CARRYING OF CONCEALED WEAPONS.

- a) The law enforcement of the Town is hereby authorized and instructed to post or cause to be posted conspicuous signage at appropriate locations on or within each park and each building or portion of a building owned, leased as lessee, operated, occupied, managed or controlled by the Town, as well as the appurtenant premises to such buildings, indicating that carrying a concealed handgun is prohibited therein in accordance with *G.S. § 14-415.23*.
- b) *Location of signs.* Signs on buildings shall be visibly posted on the exterior of each entrance by which the general public can access the building. The law enforcement of the Town shall exercise discretion in determining the number and appropriate location of signs to be placed on or within appurtenant premises and parks.

State Law Reference— Authority to adopt ordinances to permit posting of a prohibition against carrying concealed handguns on local government buildings and premises and parks, *G.S. § 14-415.23*; carrying concealed handguns on posted premises constitutes violation, *G.S. 14-415.119(c)*.

(Ord. 122)

SECTION 13-177. – 13-180. – RESERVED.

CHAPTER 14. – PARKS AND RECREATION

ARTICLE 1. - GENERAL

SECTION 14-1. – 14-100. – RESERVED.

CHAPTER 15. – PLANNING AND ZONING

ARTICLE 1. - GENERAL

AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR THE TOWN OF WAGRAM, NORTH CAROLINA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF IN ACCORDANCE WITH THE STATUTES OF NORTH CAROLINA GOVERNING MUNICIPAL ZONING.

BE IT ORDAINED AND ENACTED by the Town Board of Commissioners of the Town of Wagram, North Carolina, as follows:

(1949 Ordinance, Chapter M)

SECTION 15-1. - PURPOSE

In order to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, sewerage, schools, parks, and other public requirements; to conserve the value of buildings; to protect water resources and water quality for the future and encourage the most appropriate use of land throughout the corporate area, there is hereby adopted and established an official zoning plan of the Town of Wagram.

SECTION 15-2. - AUTHORITY

This Zoning Ordinance is adopted pursuant to the authority vested in the Town of Wagram by its charter and the General Statutes of North Carolina, particularly Chapter 160A, Article 19, Part 3.

SECTION 15-3. - JURISDICTION

The provisions of this Ordinance shall apply within the corporate limits of the Town of Wagram, North Carolina, and within the rea of extraterritorial jurisdiction as now and hereafter defined, as shown on the Zoning Map on file in the Town Hall and in accordance with the authority granted under Chapter 160A of the North Carolina General Statutes.

(Ord. 112)

SECTION 15-4. FEES

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, special use permits, zoning amendments, variances and other administrative relief. The amount of the fees charged shall be as set forth in the town's budget or as established by resolution of the Town Board of Commissioners filed in the office of the Town Clerk.

Fees shall be paid upon submission of a signed application or notice of appeal.

SECTION 15-5. - MINIMUM REGULATIONS

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare. It is not intended by this Ordinance to interfere with, abrogate, or annul easements, covenants, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

SECTION 15-6. - VALIDITY

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid by the courts, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Board of Commissioners hereby declares that it has passed this Ordinance and each section, subsection, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 15-7. - EFFECTIVE DATE

This Ordinance and its provisions governing the use of land and buildings, the height of buildings, and other matters as hereinafter set forth are hereby established and declared to be in full force and effect from and after its passage and any Zoning Ordinance previously adopted is hereby repealed.

SECTIONS 15-8. – 15-10. - RESERVED

ARTICLE 2. OFFICIAL ZONING MAP AND ZONING DISTRICTS

SECTION 15-11. - ZONING MAP

For the purposes of this Ordinance, the Town of Wagram is hereby divided into several zoning districts the locations and boundaries of which are shown on the **Official Zoning Map for the Town of Wagram** which is hereby adopted by reference and declared to be a part of this Ordinance.

This Zoning Map and all the notations, references, and all amendments thereto, and other information shown thereon are hereby made a part of this Ordinance the same as if such information set forth on the map were all fully described and set out herein. The Zoning Map properly attested is on file in the Municipal Building and is available for inspection by the public.

The Zoning Enforcement Officer or his representative shall be responsible for the maintenance and revision of the Official Zoning Map. Upon notification by the Town Board of Commissioners that a zoning change has been made, the Zoning Enforcement Officer shall make the necessary changes on the Official Zoning Map within seven (7) calendar days of notification.

SECTION 15-12. - ZONING DISTRICTS

In order that the purpose of this Ordinance may be accomplished, the zoning districts are hereby established within the zoning jurisdictional area described in Section 6, and are hereby given the following designations:

R-20	Residential	RMH-20	Residential Mobile Home
CB	Central Business	TB	Thoroughfare Business
		LI	Light Industry

SECTION 15-13. - INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundaries of zoning districts as shown on the Official Zoning Map, the following rules shall apply:

- (a) Unless otherwise specifically indicated, where district boundaries are shown on the Zoning Map as approximately parallel or following the center lines of streets, highways, railroad rights-of-way, utility easements, or stream beds, or such lines extended, then such lines shall be construed to be such district boundaries.
- (b) Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
- (c) Where a district boundary line divides a lot in single ownership, the requirements for the district in which the greater portion of the lot lies shall be extended to the balance of the lot, provided that such extension shall not include any part of such lot which lies more than fifty (50) feet beyond the district boundary, and further provided that the remaining parcel shall not be less than the minimum required for the district in which it is located.
- (d) Where any public street or alley is hereafter officially vacated or abandoned, the regulations applicable to parcels of abutting property shall apply to that portion of such street or alley thereto by virtue of such vacation or abandonment.
- (e) The Board of Adjustment shall be empowered to interpret the intent of the Zoning Map as to the location of district boundaries in case any further uncertainty exists.

SECTION 15-14. – 15-20. - RESERVED

ARTICLE 3. APPLICATION AND ENFORCEMENT

SECTION 15-21. - APPLICATION

No building or land shall hereafter be used and no building or part thereof shall be erected, moved, or altered except in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided in this Ordinance.

SECTION 15-22. - ENFORCEMENT / ZONING ENFORCEMENT OFFICER

- (a) The Town Board of Commissioners shall appoint a Zoning Enforcement Officer to enforce the provisions of this Ordinance. The assistance of such other persons may be provided as the Town Board of Commissioners may direct. The ordinance shall be enforceable in accordance with provisions available in the General Statutes of North Carolina Chapter 160A, Section 175.
- (b) If the Zoning Enforcement Officer shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of such violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violations of its provisions.

SECTION 15-23. - ZONING PERMIT AND BUILDING PERMIT REQUIRED

- (a) No land shall be used or occupied (except for agricultural purposes) and no building hereafter erected, structurally altered, or moved or its use changed until a Zoning Permit shall be issued by the Zoning Enforcement Officer, except in conformity with the provisions of this Ordinance or except after written order from the Board of Adjustment.
- (b) A Building Permit cannot be issued by the County Building Inspector unless zoning compliance is certified.
- (c) A record of all certificates shall be kept on file in the office of the Zoning Enforcement Officer and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land involved.

SECTION 15-24 - APPLICATION PROCEDURES

Each application for a Zoning permit shall be accompanied by two (2) sets of plans drawn to scale. One (1) of the plans shall be returned to the applicant upon approval of the zoning permit. The other plan set will be retained with the Town's copy of the Zoning Permit. The plan shall show the following:

- (1) The shape and dimensions of the lot on which the proposed building or uses to be erected or conducted;
- (2) The location of said lot with respect to adjacent rights-of- way;
- (3) The shape, dimensions, and location of all buildings, existing and proposed, on the said lot;

- (4) The nature of the proposed use of the building or land, including the extent and location of the use, on the said lot;
- (5) The location and dimensions of off-street parking and loading space and the means of ingress and egress to such space; and
- (6) Any other information which the Zoning Enforcement Officer may deem necessary for consideration in enforcing the provisions of this Ordinance.

A fee, set by the Town Board of Commissioners, shall be charged for the processing of such application. The adopted fee schedule shall be posted in the Town Clerk's Office.

SECTION 15-25. - TEMPORARY PERMIT

The Zoning Enforcement Officer may issue a temporary permit for commercial rides, carnivals, religious revivals, construction offices, and the placement of manufactured housing as a second dwelling for the temporary care of elderly parents and/or the terminally ill (only permissible in zoning districts that allow for manufactured housing). Such certificate shall be issued for a fixed period of time, not to exceed ninety (90) days, shall be subject to such limitations as the Zoning Enforcement Officer may impose to protect the character of the district affected, and may be considered for reapplication.

SECTION 15-26. - RIGHT OF APPEAL

If the Zoning permit is denied, the applicant may appeal the action of the Zoning Enforcement Officer to the Board of Adjustment; and that from the decision of the Board of Adjustment, recourse shall be had to courts as provided by law. It is further the intention of this Ordinance that the duties of the Town Board of Commissioners in connection with the Ordinance shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof, but that the procedure for determining such questions shall be as herein set out in the Ordinance, and that the duties of the Town Board of Commissioners in connection with this Ordinance shall be only the duty of considering and passing upon any proposed amendment or repeal of the Ordinance as provided by law.

SECTION 15-27. - PENALTY

- (a) Criminal Penalties. Any person, firm, or corporation who violates the provisions of this Ordinance shall upon conviction be guilty of a misdemeanor and shall be fined not exceeding fifty (\$50) dollars and/or imprisoned not exceeding thirty (30) days. Each day of violation shall be considered a separate and distinct offense.
- (b) Civil Penalties. If a building or structure is erected, constructed, reconstructed, or altered, repaired, converted, or maintained, or any building, structure or land is occupied or used in violation of the General Statutes of North Carolina, this ordinance, or other regulation made under authority conferred thereby, the Town of Wagram may apply to the District Court, Civil Division, or any other court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property.

In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the case. An order of abatement may direct that buildings or other structures on the property be closed, and demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement.

- (c) Equitable Relief. The Town of Wagram may apply to the District Court, Civil Division or other court of competent jurisdiction for an appropriate equitable remedy. It shall not be a defense to the Town's application for equitable relief that there is an adequate remedy at law.
- (d) Combination of Remedies. The Town may choose to enforce this ordinance by any one, all, or combination of the above procedures.

SECTION 15-28. - REMEDIES

In any case any building is created, constructed, reconstructed, altered, repaired, converted, or maintained, or any building or land is used in violation of this Ordinance, the Zoning Enforcement Officer, or any other appropriate Town authority, or any person who would be damaged by such violation, in addition to other remedies, may institute an action for injunction, or mandamus, or other appropriate action or proceeding to prevent such violation.

SECTION 15-29 - COMPLAINTS REGARDING VIOLATIONS

When a violation of this Ordinance occurs or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the cause and basis thereof and shall be filed with the Zoning Enforcement Officer. He shall record properly such complaint, investigate within ten (10) days, and take action thereon as provided in these regulations.

SECTION 15-30 - REVOKING OF PERMITS

A zoning, sign conditional use or occupancy permit may be revoked by the permit-issuing authority if the permit recipient fails to develop and maintain the property in accordance with the plans submitted, the requirements of this ordinance, or any other requirements lawfully imposed by the permit issuer. When the permit is revoked any further work upon the demolition, construction, alteration, or repair on said building, structure or sign, or further use of said building, structure, sign or land shall be deemed a violation. Each and every day such unlawful demolition, construction, alteration or repair on said building or structure, or further use of said building or structure or land continues shall be deemed a separate offense.

SECTION 15-31 – ZONING PERMIT

- (a) No land shall be used or occupied, except for agricultural purposes, and no building hereafter structurally altered, erected, or moved shall be used or occupied until a certificate of occupancy shall have been issued

by the Zoning Enforcement Officer stating that the building and/or the proposed use thereof complies with the provisions of this Ordinance and any other appropriate regulatory codes.

SECTION 15-32. - JUDICIAL REVIEW

- (a) Every decision of the Town Board of Commissioners granting or denying a Conditional use permit and every final decision of the Board of Adjustment shall be subject to review by the Superior Court of Scotland County by proceedings in the nature of certiorari.
- (b) The petition for the writ of certiorari must be filed with the Scotland County Clerk of Court within 30 days after the later of the following occurrences:
 - a. A written copy of the board's decision has been filed in the office of the Zoning Enforcement Officer; and
 - b. A written copy of the board's decision has been delivered, by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.
- (c) A copy of the writ of certiorari shall be served upon the Town of Wagram.

SECTION 15-34. – 15-40. – RESERVED

ARTICLE 4. NONCONFORMING USES

SECTION 15.41 - CONTINUANCE OF NONCONFORMING BUILDINGS

The nonconforming use of a building existing at the time of the passage of this Ordinance shall not be affected by this Ordinance, although if such use does not conform to the provisions of this Ordinance, such use may be extended throughout the building provided no structural alterations except those required by law or ordinance or ordered by an authorized officer to secure the safety of the building are made therein but no such use shall be extended to occupy and land outside such building. If such nonconforming building is removed or the nonconforming use of such building is discontinued for a continuous period of more than one hundred and eighty (180) days, every future use of such premises shall be in conformity with the provisions of this Ordinance. (Manufactured Home Parks existing at the time of the passage of this Ordinance shall be treated as nonconforming uses; see Article 8.)

SECTION 15.42 - CONTINUANCE OF NONCONFORMING USES OF LAND

The lawful use of "land" existing at the time of the passage of this Ordinance, although such use does not conform to the provisions of this Ordinance, shall not be affected by this Ordinance provided, however, that no such nonconforming use be extended to occupy a greater area of land than that occupied by such use at the time of the passage of this Ordinance. If such nonconforming use is discontinued for a continuous period of more than one hundred and eighty (180) days, any future use of said land shall be in conformity with the provision of this Ordinance.

SECTION 15.43 - CHANGE OF USE

A nonconforming use shall not be changed to any but a use listed as permitted for the district in which such a nonconforming use is located. Uses not designated as permitted shall be prohibited by this Ordinance in the areas delineated by the Official Zoning Map of the Town.

SECTION 15.44 - RECONSTRUCTION PROHIBITED

- (a) Nothing in this Ordinance shall be construed to prevent the restoration of a building destroyed to the extent of not more than sixty (60) percent of its assessed value at the time of destruction by fire, explosion, or other casualty, if such construction is begun within one hundred and eighty (180) days of the date of such damage. Owner occupied residences which are nonconforming uses may be rebuilt regardless of the extent of the destruction.
- (b) If the nonconforming use of land is for location of a manufactured home which is owner occupied, such home may be replaced by a newer model (upgrade) at any time so long as the new home is placed on the lot no more than seven (7) days after the removal of the old home and so long as the new home is occupied by the same owner occupant as the old home.

SECTION 15.45 - NORMAL MAINTENANCE AND REPAIR OF NONCONFORMING USES

Normal maintenance and repair in a building occupied by a nonconforming use is permitted provided it does not increase the bulk of the structure nor extend the nonconforming use. Owner occupied nonconforming uses may be expanded provided all district setbacks are met.

SECTION 15.46 – 15-50. – RESERVED

ARTICLE 5. GENERAL PROVISIONS

SECTION 15.51 - REQUIRED YARDS NOT TO BE USED BY ANOTHER BUILDING

The minimum yards or other open spaces required by this Ordinance for each and every building hereafter erected, moved, or structurally altered shall not be encroached upon or considered as meeting the yard or open space requirements of any other building.

SECTION 15.52 - RELATIONSHIP OF BUILDING TO LOTS

Every building hereafter erected, moved, or structurally altered shall be located on a lot and in no case shall there be more than one principal building and its customary accessory buildings on the lot except in the case of designed complex of institutional, residential, commercial, industrial buildings in an appropriate zoning district, i.e., school campus, cluster housing, shopping center, research park, etc.

SECTION 15.53 - REDUCTION OF LOT AND YARD AREAS PROHIBITED

No yard or lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall be at least the minimum requirements established by this Ordinance.

SECTION 15.54 - NEWLY INCORPORATED AREAS

All territory which may hereafter be included within the zoning jurisdiction of the Town of Wagram shall be zoned by the Town Board of Commissioners at the time of such incorporation.

SECTION 15.55. - LOT OF RECORD

Where the owner of a lot at the time of the adoption of this Ordinance or his successor in title thereto does not own sufficient land to enable him to conform to the dimensional requirements of this Ordinance (lot area, lot width or setback requirements), the Zoning Enforcement Officer shall allow such lot to be used as a building site in the district in which it is located; provided, that the lot width, lot area or setback requirements are not more than twenty (20) percent below the minimum specified in this Ordinance. In any case where the dimensional requirements are more than twenty (20) percent below the minimum specified in this Ordinance, the Board of Adjustment may approve, as a special exception, such dimensions as shall conform as closely as possible to the required dimensions.

SECTION 15.56. - ADJOINING AND VACANT LOTS OF RECORD

If two (2) or more adjoining and vacant lots of record are in a single ownership at any time after the adoption of this Ordinance and such lots individually have less frontage or area than the minimum requirements of the district in which such a single lot or several lots are located, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Ordinance.

SECTION 15.57. - CURB CUTS GIVING ACCESS TO PUBLIC RIGHTS-OF-WAY

Construction of curb cuts for purposes of ingress or egress to property abutting a public right-of-way shall be approved by the public authority in the Town which has jurisdiction over the maintenance of public streets and the North Carolina Department of Transportation where said curbs affect access to State Highways. Provision for all access work done on highway right-of-way is subject to approval by the Department of Transportation.

SECTION 15.58. - HEIGHT LIMIT EXCEPTIONS

The height limitations contained in the schedule of district regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, mechanical equipment penthouses, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

SECTION 15.59. - CORNER VISIBILITY

No planting, fence or other obstruction to visibility of vehicles shall be erected, planted, maintained, or allowed to exist in any district within the range of three (3) feet to ten (10) feet above the centerline grades of the intersecting streets in the triangular area bounded by the street right-of-way lines of such corner lots and a line joining points along these street lines twenty-five (25) feet from the point of intersection.

SECTION 15.60. - MANUFACTURED HOMES AS TEMPORARY USES

Manufactured homes may be allowed as temporary quarters in any district at the discretion of the Zoning Enforcement Officer. Examples of permissible temporary quarters are construction offices and temporary disaster relief quarters for any type of use. Permits for 60-day periods of use must be obtained from the Zoning Enforcement Officer, who can renew the permits for additional 60-day periods at his discretion. Appeals of the Administrative Officer's decisions are to the Board of Adjustment.

SECTION 15.61. - MANUFACTURED HOMES TO BE UNDERPINNED

In order to insure public safety and welfare, every mobile home located in the Town of Wagram at the time of the passage of this ordinance will, within one year, be underpinned with materials approved by and in a manner approved by the Zoning Enforcement Officer. Materials should be manufactured specifically as mobile home underpinning including vinyl, imitation brick, imitation stone/rock, fiber glass, block, brick and other similar materials. The Zoning Enforcement Officer along with the town staff, will notify each manufactured home owner of this requirement, and insure compliance within one year.

SECTION 15.62. – VESTED RIGHTS

The purpose of this section is to implement provisions of G.S.160A-385.1 which establishes a statutory zoning vested right upon the approval of a site specific development plan.

A. DEFINITION:

1. At the time that the landowner submits application for a conditional land use permit, the landowner must declare he is seeking to acquire a vested right pursuant to G.S. 160A-385.1 and the Town of Wagram Zoning Ordinance by completing the accompanying form.
2. The Planning Board will schedule the public hearing.
3. A variance shall not constitute a site specific development plan, and approval of a site specific development plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained.
4. Neither a sketch plan nor any other document which fails to describe with reasonable certainty the type and intensity of use for a specified parcel of parcels of property may constitute a site specific development plan.

B. ESTABLISHMENT OF VESTED RIGHT:

1. A vested right shall be deemed established upon the valid approval, or conditional approval of the conditional use permit. Such vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the subdivision plat, or conditional use permit.
2. A right which has been vested as provided for in this section shall remain vested for a permit of two years. This vesting shall not be extended by any amendments or modifications unless expressly provided by the town.

C. TERMINATION OF A VESTED RIGHT:

A right which has been vested as provided in this section shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed. An established vested right runs with the land.

D. CHANGES AND EXCEPTIONS:

A vested right, once established as provided for in this section, precludes any zoning action by the town which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site specific development plan except:

1. With written consent of the affected landowner.
2. Upon findings that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan.
3. To the extent that the affected landowner receives compensation for all costs and losses.
4. Upon findings that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the plan approval by the town.
5. Upon the enactment of a State or federal law or regulation which precludes development as contemplated in the site specific development plan.

SECTIONS 15-63. – 15-70. - RESERVED

ARTICLE 6. - DISTRICT REGULATIONS

SECTION 15.71 RESIDENTIAL DISTRICT R-20

In the R-20 Residential District, the principal use of land is for low density residential and agricultural purposes, and to provide and protect low density single-family and duplex residential areas for those desiring that type of environment. The regulations are intended to prohibit any use which, because of its character, would interfere with the residential nature of this district. These districts are intended to insure that residential development not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at a sufficiently low density to provide a healthful environment.

A. PERMITTED AND CONDITIONAL USES

LAND USE	P=Permitted by Right in this District -or- CUP=Conditional Use Permit Required	Supplemental Regulations Apply
Accessory Uses and Structures	P	Section 13-132.
Agriculture excluding livestock	P	Section 13-136.
Assembly Uses	CUP	
Bed and Breakfast Inns	CUP	
Boarding and Rooming Houses	CUP	
Bus and Transit Shelter	P	
Child Care Center/Child Day Care	CUP	Section 13-137.
Churches, Synagogues & Temples (including associated residential structures for religious personnel)	P	
Community Garden	P	
Duplex/2-Family Apartment	CUP	
Equestrian Facilities/Riding Academies	CUP	

LAND USE	P=Permitted by Right in this District -or- CUP=Conditional Use Permit Required	Supplemental Regulations Apply
Family Care Homes	P	Section 13-143.
Farm Stands/Horticultural Sales	P	Section 13-144.
Fill Sites	CUP	
Fire & Police Stations, EMT Squads, Ambulance Service	P	
Golf Courses, Par3, Driving Ranges	CUP	Section 13-147.
Group Home	CUP	Section 13-143.
Health Care and Health Service Facilities	CUP	Section 13-149.
Home Occupations	P	Section 13-150.
Libraries and Museums	P	
Manufactured Homes "Class A" on Individual Lots	P	Section 13-138.
Multi-Family Townhomes or Apartments	CUP	Section 13-155.
Offices or clinics of physicians or dentists with not more than 10,000 square feet of gross floor area	P	
Parking Facility	CUP	
Parks and Recreation	P	
Plant Nurseries and Greenhouses	P	
Primary Residence with accessory apartment	CUP	
Recreational Facility	CUP	
Resource Protection and Restoration	P	
Sewer and water treatment plants	CUP	
Schools, Colleges and Other Similar Public and Private Institutions	P	

LAND USE	P=Permitted by Right in this District -or- CUP=Conditional Use Permit Required	Supplemental Regulations Apply
Single-Family Homes –detached, site built and modular	P	
Solar Energy Facility	CUP	See Chapter 15, Article 12
Swimming Pools	CUP	Section 13-160.
Theaters and Auditoriums	CUP	
Telecommunications Facility/Tower	CUP	See Chapter 15, Article 10
Temporary Uses	CUP	Section 13-162.
Temporary Health Care Structures	CUP	Section 13-163.
Utility and Public Works Facility and Infrastructure	CUP	
Veterinarians and Animal Care Facilities; Kennels	CUP	Section 13-134.

B. DIMENSIONAL REQUIREMENTS

The following dimensional requirements shall cover all uses permitted in the R-20 Zone.

Minimum Lot Size	Minimum Lot Width at the Building Line	Minimum Front Yard Setback	Minimum Rear Yard Setback	Minimum Side Yard Setback	Minimum Corner Lot Side Setback	Maximum Building Height
20,000 sq. ft.	100 feet	35 feet	30 feet	15 feet	20 feet	35 feet

C. PARKING

Off-street parking shall be provided according to the provisions set forth in **Article 7** of this Ordinance.

D. SIGNS

All signs shall conform to **Article 9** of this Ordinance.

SECTION 15.72 - RESIDENTIAL MOBILE HOME DISTRICT – RMH-20

This district is defined as medium-density residential areas of mostly single-family dwellings, open areas where similar residential development will likely occur and manufactured home parks. The uses permitted in this district are designed to stabilize and protect the essential characteristics of the area and to prohibit all activities of a commercial nature except certain home occupations controlled by specific limitations.

A. PERMITTED AND CONDITIONAL USES

LAND USE	P=Permitted by Right in this District -or- CUP=Conditional Use Permit Required	Supplemental Regulations Apply
Accessory Uses and Structures	P	Section 13-132.
Agriculture excluding livestock	P	Section 13-136.
Assembly Uses	CUP	
Bed and Breakfast Inns	CUP	
Boarding and Rooming Houses	CUP	
Bus and Transit Shelter	P	
Child Care Center/Child Day Care	CUP	Section 13-137.
Churches, Synagogues & Temples (including associated residential structures for religious personnel)	P	
Community Garden	P	
Duplex/2-Family Apartment	CUP	
Equestrian Facilities/Riding Academies	CUP	
Family Care Homes	P	Section 13-143.
Farm Stands/Horticultural Sales	P	Section 13-144.

LAND USE	P=Permitted by Right in this District -or- CUP=Conditional Use Permit Required	Supplemental Regulations Apply
<u>Fill Sites</u>	CUP	
Fire & Police Stations, EMT Squads, Ambulance Service	P	
Golf Courses, Par3, Driving Ranges	CUP	Section 13-147.
Group Home	CUP	Section 13-143.
Health Care and Health Service Facilities	CUP	Section 13-149.
Home Occupations	P	Section 13-150.
Libraries and Museums	P	
Manufactured Homes "Class A" on Individual Lots	P	Section 13-138.
Multi-Family Townhomes or Apartments	CUP	Section 13-155.
Offices or clinics of physicians or dentists with not more than 10,000 square feet of gross floor area	P	
Parking Facility	CUP	
Parks and Recreation	P	
Plant Nurseries and Greenhouses	P	
Primary Residence with accessory apartment	CUP	
Recreational Facility	CUP	
Resource Protection and Restoration	P	
Resource-Related Recreation	P	
Sewer and water treatment plants	CUP	
Schools, Colleges and Other Similar Public and Private Institutions	P	
Single-Family Homes –detached, site built and modular	P	

LAND USE	P=Permitted by Right in this District -or- CUP=Conditional Use Permit Required	Supplemental Regulations Apply
Solar Energy Facility	CUP	See Chapter 15, Article 12
Theaters and Auditoriums	CUP	
Telecommunications Facility/Tower	CUP	See Chapter 15, Article 10
Temporary Uses	CUP	Section 13-162.
Utility and Public Works Facility and Infrastructure	CUP	
Veterinarians and Animal Care Facilities; Kennels	CUP	Section 13-134.

B. DIMENSIONAL REQUIREMENTS

The following dimensional requirements shall cover all uses permitted in the RMH-20 Zone.

Minimum Lot Size	Minimum Lot Width at the Building Line	Minimum Front Yard Setback	Minimum Rear Yard Setback	Minimum Side Yard Setback	Minimum Corner Lot Side Setback	Maximum Building Height
15,000 sq. ft.	100 feet	35 feet	25 feet	10 feet	15 feet	35 feet

C. PARKING

Off-street parking shall be provided according to the provisions set forth in **Article 7** of this Ordinance.

D. SIGNS

All signs shall conform to the provisions set forth in **Article 9** of this ordinance.

SECTION 15.73 – CENTRAL BUSINESS DISTRICT (CB)

The Central Business District (CB) is established as the centrally located trade and commercial service area of the community. The district encourages and provides for revitalization, reuse and infill development and the integration of shops, restaurants, services, civic, educational and religious facilities and higher density residential housing in a pedestrian-oriented environment. The regulations of this district are designed to encourage the continued use of land for community trade and commercial service uses, and to permit a concentrated development of permitted uses while maintaining a substantial relationship between the intensity of land uses and the capacity of utilities and streets.

A. PERMITTED AND CONDITIONAL USES

LAND USE	P=Permitted by Right in this District -or- CUP=Conditional Use Permit Required	Supplemental Regulations Apply
Accessory Uses and Structures	P	Section 13-132.
Automobile Service Stations	CUP	Section 13-135.
Automobile Sales, New and Used	P	Section 13-135.
Assembly Uses	P	
Bed and Breakfast Inns	P	
Bus and Transit Shelter	P	
Business Establishments Such as Trades (electrical, carpentry, plumbing, HVAC, paints, decorating, etc.)	P	
Child Care Center/Child Day Care	P	Section 13-137.
Churches and Other Places of Worship	P	
Civic, Fraternal, Cultural, Community or Club Houses	P	
Community Garden	P	
Family Care Homes	P	Section 13-143.
Fire Stations, Rescue Squads and Similar Services	P	

LAND USE	P=Permitted by Right in this District -or- CUP=Conditional Use Permit Required	Supplemental Regulations Apply
Flea Markets	CUP	Section 13-145.
Funeral Homes and Mortuaries	P	
Group Home	P	Section 13-143.
Hotels and Motels, Boarding Houses	P	
Indoor Amusement, pool rooms and recreational centers for profit	CUP	
Health Care and Health Service Facilities	CUP	Section 13-149.
Home Occupations	P	Section 13-150.
Libraries and Museums	P	
Medical and other Professional Offices	P	Section 13-149.
Mixed Uses	CUP	
Offices For Business and Professional Purposes, Including Government Offices	P	
Parking Facility	CUP	
Parks and Recreation	P	
Plant Nurseries and Greenhouses	P	
Religious Institutions, Churches	P	
Resource Protection and Restoration	P	
Restaurants and Retail Shops	P	
Single-Family Homes	P	
Schools, Colleges and Other Similar Public and Private Institutions	P	

LAND USE	P=Permitted by Right in this District -or- CUP=Conditional Use Permit Required	Supplemental Regulations Apply
Taxi Stands	P	
Temporary Mobile Food Sales	CUP	Section 13-152.
Temporary Outdoor Sales of Agricultural and related products such as Christmas tree or pumpkin sales	CUP	
Theaters and Auditoriums	P	
Telecommunications Facility/Tower	CUP	See Chapter 15, Article 10
Utility and Public Works Facility and Infrastructure	P	

B. DIMENSIONAL REQUIREMENTS

Minimum Lot Size	Minimum Lot Width at the Building Line	Minimum Front Yard Setback	Minimum Rear Yard Setback	Minimum Side Yard Setback	Minimum Corner Lot Side Yard Setback	Maximum Building Height
		None other than any new building that is constructed shall be set back the same distance from the street as are the buildings on the adjoining lots.		None, but when side yard is provided it shall be a minimum of four (4) feet		

C. OFF-STREET PARKING AND LOADING

Off-street parking and loading shall be provided according to the provisions set forth in **Article 7** of this Ordinance, with the following exceptions:

- Hotels, motels, and similar uses shall meet the parking requirements of **Article 7, Section 15.84**.

2. Banks and other establishments with drive-in windows shall file a circulation plan providing adequate off-street waiting lanes for drive-in customers.
3. The Town Board of Commissioners, upon recommendation by the Planning Board, may waive parking requirements.

D. SIGNS

All signs shall conform to the provisions set forth in **Article 9** of this Ordinance.

E. COMPATIBILITY OF DEVELOPMENT

Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.

SECTION 15.74 - HIGHWAY BUSINESS DISTRICT – (TBD)

Highway Business Districts are located on major thoroughfares where traffic is dependent on an automobile or public transit and are intended to provide for offices, personal services and the retailing of durable and convenience goods for the community. These commercial and business uses are subject to public view and are important to the economy of the area; they should have ample parking, controlled traffic movement and suitable landscaping.

A. PERMITTED AND CONDITIONAL USES

LAND USE	P=Permitted by Right in this District -or- CUP=Conditional Use Permit Required	Supplemental Regulations Apply
Accessory Uses and Structures	P	Section 13-132.
Assembly Halls, coliseums, armories, ballrooms and similar structures	P	
Auction Sales	P	
Automobile Service Stations	P	Section 13-135. and 13-165.
Automobile Sales, New and Used	P	Section 13-135. and 13-165.
Assembly Uses	P	
Bakeries	P	
Barber Shops and Beauty Shops	P	
Bicycle Shops, new and repair	P	
Bed and Breakfast Inns	P	
Boat and Trailer Works and Sales	P	
Bowling Alleys, Skating rinks, miniature golf courses and other similar recreation establishments	P	
Building materials storage and sales yard	P	

LAND USE	P=Permitted by Right in this District -or- CUP=Conditional Use Permit Required	Supplemental Regulations Apply
Bus and Transit Shelter	P	
Car Washes	P	
Child Care Center/Child Day Care	P	Section 13-137.
Civic, Fraternal, Cultural, Community or Club Houses	P	
Commercial Businesses	P	
Community Garden	P	
Contractor Offices	P	
Distilleries and Microbreweries	CUP	Section 13-139.
Drive-In Restaurants	P	
Dry Cleaning and Laundering Businesses	P	
Family Care Homes	P	Section 13-143.
Farm Equipment and Machinery, sales, assembly and repair	P	
Fire Stations	P	
Flea Markets	P	Section 13-145.
Funeral Homes and Mortuaries	P	
Food and Grocery Stores	P	
Floral and Gift Shops	P	
Group Home	P	Section 13-143.
Hotels and Motels, Rooming Houses	P	
Indoor Amusement	P	
Industrial Supplies and Equipment sales and service,	P	

LAND USE	P=Permitted by Right in this District -or- CUP=Conditional Use Permit Required	Supplemental Regulations Apply
Health Care and Health Service Facilities	P	Section 13-149.
Home Occupations	P	Section 13-150.
Jewelry Sales and Repair Shops	P	
Laundry Mats	P	
Libraries and Museums	P	
Locksmiths and Gun Smiths	P	
Machine and Welding Shops	P	
Manufactured Home Sales	CUP	Section 13-154.
Medical and other Professional Offices	P	Section 13-149.
Mixed Uses	CUP	
Mobile Home Sales	P	
Monument Works and Sales	P	
Parking Facility	CUP	
Parks and Recreation	P	
Plant Nurseries and Greenhouses	P	
Pawn and Thrift Shops	P	
Religious Institutions, Churches	P	
Resource Protection and Restoration	P	
Resource-Related Recreation	P	
Restaurants	P	
Retail Shops - Other	P	
Self-Service Storage Facilities	P	Section 13-158.
Single-Family Homes	P	
Schools, Colleges and Other Similar Public and Private Institutions	P	

LAND USE	P=Permitted by Right in this District -or- CUP=Conditional Use Permit Required	Supplemental Regulations Apply
Shopping Centers	P	
Shops for Repair and Trade	P	
Taxi Stands	P	
Temporary Mobile Food Sales	CUP	Section 13-152.
Temporary Outdoor Sales of Agricultural and related products such as a farmer’s market, Christmas tree or pumpkin sales	CUP	Sections 13-144. And Section 13-162.
Theaters and Auditoriums	P	
Theaters, Drive-In	P	
Truck Terminals, Transfer Companies	CUP	
Telecommunications Facility/Tower	CUP	See Chapter 15, Article 10
Utility and Public Works Facility and Infrastructure	P	
Wholesale Sales, Jobbing Facilities and Warehousing	CUP	
Wholesale storage of gasoline, and oil products, including bottled gas and oxygen	P	Section 13-148.

B. DIMENSIONAL REQUIREMENTS

Minimum Lot Size	Minimum Lot Width at the Building Line	Minimum Front Yard Setback	Minimum Rear Yard Setback	Minimum Side Yard Setback	Minimum Corner Lot Side Yard Setback	Maximum Building Height
5,000 sq. ft.	100 feet	15 feet	20 feet	15 feet	15 feet	35 feet

C. OFF-STREET PARKING AND LOADING

Off-street parking and loading shall be provided according to the provisions set forth in **Article 7** of this Ordinance, with the following exceptions:

1. Hotels, motels, and similar uses shall meet the parking requirements of **Article 7, Section 15.84**.
2. Banks and other establishments with drive-in windows shall file a circulation plan providing adequate off-street waiting lanes for drive-in customers.
3. The Town Board of Commissioners, upon recommendation by the Planning Board, may waive parking requirements.

D. SIGNS

All signs shall conform to the provisions set forth in **Article 9** of this Ordinance.

SECTION 15.75 - LIGHT INDUSTRY - LI

The Light Industry District is established for those areas of the community where the principal use of land is for manufacturing, industrial, and warehousing activities. These uses, by their nature, may create some nuisances which are not properly associated with residential, institutional, commercial and/or service establishments. These uses normally seek outlying locations on large tracts of land where the operations involved do not detract from the development potential of nearby undeveloped properties.

A. PERMITTED AND CONDITIONAL USES

LAND USE	P=Permitted by Right in this District -or- CUP=Conditional Use Permit Required	Supplemental Regulations Apply
Apparel, wholesale distribution	P	
Auction House	CUP	
Automobile part, accessories and wholesale distribution	P	Section 13-165.
Automobile repair and body work including the storage of dismantled parts and junk vehicles	CUP	
Automobile Service Stations	P	Section 13-135.
Automobile Sales, New and Used	P	Section 13-135.
Boat and Trailer Works and Sales	P	
Building materials storage and sales yard,	P	
Bus and Transit Shelter	P	
Car Washes	P	
Cold Storage Facilities	P	
Communications equipment, wholesale distribution	P	
Contractor Offices	P	
Distilleries and Microbreweries	CUP	Section 13-139.
Dry Cleaning and Laundering Plants	P	

LAND USE	P=Permitted by Right in this District -or- CUP=Conditional Use Permit Required	Supplemental Regulations Apply
Farm Equip. and Machinery, sales, assembly and repair	P	
Fertilizer, feed and farm supplies	P	
Fertilizer Manufacturer	CUP	Section 13-148.
Fire Stations, Emergency Services, Ambulance	P	
Freight terminals	CUP	
Industrial Supplies and Equipment, sales and service	P	
Landfills and Incinerators	CUP	Section 13-153.
Locksmiths and Gun Smiths	P	
Lumber sales and storage	P	
Manufacturing, Assembling and Processing Industries	CUP	
Machine and Welding Shops	P	
Monument Works and Sales	P	
Paper Recycling facility	CUP	
Parking Facility	CUP	
Petroleum, bulk storage	CUP	
Rental businesses for vehicles, machinery and equipment	P	
Self-Service Storage Facilities	P	Section 13-158.
Solar Energy Facility	CUP	See Chapter 15, Article 12
Taxi Stands	P	
Temporary Mobile Food Sales	CUP	Section 13-152.
Truck Terminals and Transfer Companies	CUP	

Telecommunications Facility/Tower	CUP	See Chapter 15, Article 10
Utility and Public Works Facility and Infrastructure	P	
Wholesale Sales	P	
Wholesale storage of gasoline, and oil products, including bottled gas and oxygen	CUP	Section 13-148.

B. CONDITIONAL USES

Any industrial use may be permitted which the Town Town Board of Commissioners finds can conform to the following requirements:

- (a) There is no unusual fire, explosion, or safety hazard.
- (b) There is no emission of fly ash, dust, fumes, vapors, mist, or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation, or other forms of property.
- (c) There is no production of heat or glare perceptible from any lot line of the premises on which the use is located.
- (d) There is no emission of any odorous matter of such nature or quantity as to be offensive, obnoxious, or unhealthful outside the premises.

C. DIMENSIONAL REQUIREMENTS

There are no minimum lot sizes in this district.

D. REQUIRED BUFFERS

After the effective date of this Ordinance, where this district abuts a lot in a residential district or land occupied by any residential use permitted by this Ordinance, there shall be provided and maintained along said property line a continuous visual buffer. The buffer shall be a compact evergreen hedge or other type of evergreen foliage screening which shall reach a height of eight (8) feet within four years and shall be maintained at a minimum of eight feet in height thereafter, or shall be combined fence and shrubbery screen, the latter facing the residential use.

This requirement can be waived by the Board of Adjustment upon the recommendation of the Planning Board along any boundary which is naturally screened by evergreen plant materials or topography, or may be deferred in isolated areas.

E. OFF-STREET PARKING AND LOADING

Off-street parking and loading shall be provided according to the provisions set forth in **Article 7** of this Ordinance.

F. SIGNS

All signs shall conform to the provisions set forth in **Article 9** of this Ordinance.

SECTION 15.76 – 15.83 - RESERVED

ARTICLE 7. - OFF-STREET PARKING AND LOADING

SECTION 15.84 - OFF-STREET PARKING - GENERAL REQUIREMENTS

Off-street automobile parking or storage space shall be provided on the same lot as the principal use except in the Central Business District and as provided in Section 15.87 below at the time of erection of any building, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, or floor area; or before conversion from one type of use or occupancy to another, in the amount specified by this section. Such parking space may be provided in a covered parking structure or properly graded open space.

SECTION 15.85 - CERTIFICATION OF MINIMUM PARKING REQUIREMENTS

Each application for a building permit or certificate of occupancy submitted to the Building Inspector as provided for in this Ordinance shall include information as to the location and dimensions of off-street parking and loading space and the means of exit and entrance to such space. This information shall be in sufficient detail to enable the Building Inspector to determine whether or not the requirements of this section are being met. The Town Board of Commissioners may, upon recommendation by the Planning Board, waive parking requirements for the CBD only.

SECTION 15.86 JOINT USE OF REQUIRED PARKING SPACE

The required parking space for any number of separate uses may be combined in one lot but the required space assigned to one use may not be assigned to another use, except that one-half (1/2) of the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night and on Sundays.

SECTION 15.87 - REMOTE PARKING SPACE

If the off-street parking space required by this Ordinance cannot be reasonably provided on the same lot on which the principal use is located, such space shall be provided on any lot a substantial portion of which is within five hundred (500) feet of the main entrance of such principal use, provided such land is in the same ownership as the principal use or leased on a long-term basis for the specific purpose to serve as parking space for the aforesaid principal use.

SECTION 15.88 – IMPROVEMENT AND LOCATION STANDARDS

1. All off-street parking, including entrances, exits, and maneuvering and parking areas shall:

- (a) Have the access drive(s) paved from the existing street paving to a point at least fifteen (15) feet beyond the public right-of-way, except that residential uses requiring less than five spaces shall be exempt from this paving requirement.
 - (b) Be permanently maintained by the owners.
2. In addition all parking lots that are used regularly at least five days per week, except as provided below, shall be paved up to the required paved driveway. This paving requirement shall not apply to:
- (a) Parking lots used only by churches, private clubs, or similar organizations on an irregular schedule, and
 - (b) Parking lots for residential uses where less than five spaces are required.
3. A strip of land five (5) feet wide adjoining any street line or any zoned for residential uses shall be preserved as open space, guarded with wheel bumpers and planted in shrubbery.

SECTION 15.89 - MINIMUM OFF-STREET PARKING REQUIREMENTS

Off-street parking space shall be provided with vehicular access to a street or alley; such use shall not thereafter be encroached upon or altered; and shall be equal in number to at least the minimum requirements for the

Specific uses set forth below:

Use Classification	Parking Space Requirements
Auditorium or Theater	One (1) space for each four (4) seats in the largest assembly area.
Banks	One (1) parking space for each two hundred square feet of gross floor space plus one (1) space for each two (2) employees.
Bowling Alley	Three (3) spaces per alley plus requirements for any other use associated with the establishment such as a restaurant, etc.
Church	One (1) space for each four (4) seats in the main chapel.
Club or Lodge	One (1) space for each two hundred (200) square feet of gross floor space.
Golf Courses	Four (4) spaces for each hole plus requirements for any other use associated with the golf course (restaurant, etc.).
Home Occupation	In addition to residence requirements one (1) parking space per five hundred (500) square feet of floor space devoted to the home occupation use.

Hospital or Nursing Home	One (1) parking space for each two (2) beds plus one (1) space for each two (2) employees (nurses, attendants, etc.) plus one (1) space for each staff or visiting doctor.
Hotel	One (1) space for each room to be rented plus one additional space for each two (2) employees.
Industrial or Manufacturing	One (1) space for each two (2) employees on shift.
Use Classification	Parking Space Requirements
Establishment or Warehouse	One (1) parking space for each ten (10) managerial personnel, one (1) visitor parking space for each vehicle used directly in the conduct of the business.
Kindergarten or Nursery	One (1) space for each employee and four (4) spaces for off-street drop-off and pick-up.
Library	One (1) space for each three (3) seats provided for patron use.
Medical and Dental Offices	Four (4) spaces for each physician or dentist practicing at the clinic, plus one (1) space for each employee.
Mortuary or Funeral Home	One (1) space for each four (4) seats in the assembly room or chapel.
Motel, Motor Court or Tourist Home	One (1) space for each unit plus one (1) space for each two (2) employees plus requirements for any other use associated with the establishment.
Offices, Business and Public	One (1) space for each two hundred (200) square feet of floor area.
Offices, Professional	One (1) parking space for each employee plus three (3) spaces for each professional member of the staff.
Restaurant, Cafe, Tavern or other Place Serving Food and Drink	One (1) space for each three (3) seats plus one (1) space for each two (2) employees.
Restaurant, Drive-In	One (1) space for each three (3) seats plus a minimum of fifteen (15) spaces for drive-in service plus one (1) space for each two (2) employees.
Rooming and Boarding	One (1) space for each two (2) guest rooms, plus one (1) Houses additional space for the owners.

Retail Uses Not Otherwise	One (1) parking space for space for each one hundred (100) square feet of gross floor area.
School, Elementary and Jr. High	One (1) space for each classroom and administrative office plus adequate facilities for school parking and convenient loading and unloading of students.
School, High School	Consult North Carolina Public Facilities Guidelines.
Service Station	Five (5) spaces for each lubrication rack and one (1) space for each two (2) employees.
Use Classification	Parking Space Requirements
Shopping Center	One (1) parking space for every one hundred fifty (150) square feet of overall floor area.
Multi-Family Residence	One and one-half (1 1/2) spaces for each dwelling unit.
Single Family Residence and Duplex	Two (2) spaces for each dwelling unit.
Stadium	One (1) space for each eight (8) seats.

Special situations which are not covered by the above shall be handled by the Board of Adjustment. In such cases the Board of Adjustment shall make the final determination as to the number of spaces to be required, but shall in all cases give due consideration to the needs and space available, and shall classify the proposed use in one of the categories listed above.

SECTION 15.90 - OFF-STREET LOADING

A. OFF-STREET LOADING AND UNLOADING SPACE REQUIREMENTS

Every building or structure used for business, trade, or industry hereafter erected, shall provide space as indicated herein for the loading and unloading of vehicles off the street or public alley. Such space shall have adequate access to an alley or in the absence of an alley, a public street. For the purposes of this section, an off-street loading space shall have minimum dimensions of twelve (12) feet by fifty (50) feet exclusive of adequate access drives and maneuvering space, and overhead clearance of fifteen (15) feet in height above the alley or street grade. A loading space requirement may be modified or waived by the Town Board of Commissioners on application in the case of a bank, auditorium, theater, assembly hall, or other building of similar limited space requirement.

B. NUMBER OF REQUIRED OFF-STREET LOADING SPACES

Number of Square Feet of Gross Floor Area	Required Spaces
0 - 25,000	1
25,000 - 40,000	2

40,000 - 100,000	3
100,000 - 160,000	4
160,000 - 240,000	5
240,000 - 320,000	6
320,000 - 400,000	7
Each 90,000 above 400,000	1 additional

SECTIONS 15.91. – 15.95. – RESERVED.

ARTICLE 8. - MANUFACTURED HOME PARKS

SECTION 15.96 - GENERAL

Manufactured Home Parks are a conditional use in the RMH-20 district of the Town of Wagram. **Existing manufactured home parks are considered prior existing non-conforming uses as discussed in Section 4 with some exceptions.** Existing mobile home parks will be allowed to continue operation only by complying with the standards outlined in Section 8.3.

SECTION 15.97 - PERMITS

- (a) It shall be unlawful for any person to maintain or operate a manufactured home park within the jurisdiction of this ordinance unless such person shall first obtain from the Town Board of Commissioners a Manufactured Home Park Operating Permit as described below.
- (b) The Manufactured Home Park Operating Permit shall be issued and subsequently renewed if the Town finds that all the provisions of this ordinance are being met.
- (c) No Manufactured Home Park Operating Permit shall be issued for any manufactured home park until the compliance plan has been approved by the Town Board of Commissioners.
- (d) A Temporary Manufactured Home Park Operating Permit, valid for six (6) months shall be issued by the Zoning Officer permitting an existing park to be maintained and operated while the compliance plan is being prepared.
- (e) No person shall make any additions to a manufactured home park that alters the number of sites for manufactured homes within the park without the express permission of the Town Board of Commissioners. In addition, no person shall make any alteration to a park that affects the facilities required therein until he first secures a Business License authorizing such alteration.

SECTION 15.98 -PROCEDURE

- (a) Once a Temporary Manufactured Home Park Operating Permit has been issued, a park owner will have a six-month period to develop and submit a park compliance plan to the Town Board of Commissioners.
- (b) The Park Compliance Plan shall show how the park presently complies or will, within a three-year period, comply with all standards listed in Section 15.99 below.
- (c) Once the Park Compliance Plan is approved by the Town Board of Commissioners, the park owner will be issued a Manufactured Home Park Operating Permit, which is valid for three years. Six months prior to its expiration, the park owner will receive notice that the Manufactured Home Park Operating Permit must be renewed.
- (d) If no compliance plan is submitted, the park owner shall be considered to have chosen not to comply with the standards set forth in Section 15.99, and will be considered to have chosen the alternative of ceasing operation upon the expiration of his Temporary Manufactured Home Park Operating Permit.

- (e) Upon recommendation by the Planning Board, the Town Board of Commissioners may waive an operating standard if the Board determines it infeasible for the operator.

SECTION 15.99 - OPERATING STANDARDS FOR MANUFACTURED HOME PARKS EXISTING AT THE TIME OF THE ADOPTION OF THIS ORDINANCE

- (a) Underpinning. All manufactured homes within a Manufactured Home Park shall meet underpinning requirements outlined in **Section 5.61**.
- (b) Utilities. The manufactured home park and all occupied units located in it must be connected to the municipal water and sewerage systems or other systems approved by the Scotland County Health Department or the North Carolina Division of Health Services and the North Carolina Division of Water Quality. Each manufactured home park space shall have hook-up facilities for water, sewer, electricity, and telephone services. All occupied manufactured home units shall have and use sanitary facilities within the manufactured home unit.
- (c) Other Permitted Uses. Service buildings, recreation buildings, and other areas or structures providing laundry, sanitation and managerial facilities are permitted and shall serve only the park in which they are located. No such facility shall have direct access to a public street but shall be served by the privately maintained roadway.
- (d) Screening and Landscaping. The manufactured home park shall have a screening strip of plant material adjacent to and within the park boundary extending along the entire perimeter of the park. This requirement may be waived by the Town Board of Commissioners upon the recommendation of the Planning Board along any boundary which is naturally screened by evergreen plant materials or topography. Screening strips shall not be a portion of any manufactured home space, street, or private drive. The park shall be completely screened at a height of four (4) to six (6) feet from the view of adjacent properties. Landscaping shall be provided throughout the park with ample trees and shrubs to provide shade and break up open areas. All banks and open areas shall be grassed.
- (e) One Manufactured Home Per Space. No more than one (1) manufactured home may be parked on any manufactured home space.
- (f) Common Recreation Space. At least eight percent (8%) of the total gross acreage of the park shall be reserved and developed as a common recreation space for the residents of the park. This recreation space shall be identified on all plans and approved by the Planning Board and the Town Board of Commissioners. Such areas shall be adequately lighted for safety.
- (g) Parking. Parking spaces sufficient to accommodate at least two (2) automobiles shall be constructed within each manufactured home space and they shall be graveled or covered with four (4) inches of crushed stone.

SECTION 15.100 - OPERATING STANDARDS FOR NEW MANUFACTURED HOME PARKS

- (a) Area. The lot area of the manufactured home park shall be a minimum of two acres.

- (b) Density. There shall be a maximum of four (4) manufactured homes per acre.

- (c) Utilities. The manufactured home park and all occupied units located in it must be connected to the municipal water and sewerage systems or other systems approved by the Scotland County Health Department or the North Carolina Division of Health Services and the North Carolina Division of Water Quality.

- (d) Dimensional Requirements. The following dimensional requirements will be met:

Minimum mobile home park area	Two acres
Minimum park width	100 feet
Maximum density	4 units per Acre
Minimum size of manufactured home space:	
Single-wide	6,500 square feet
Double-wide	7,500 square feet
Minimum Setbacks (any attached structure, such as room extensions, porches, carports, etc. shall be considered to be part of the manufactured home)	
Front Yard	25 feet
Side Yard	10 feet
Rear Yard	25 feet
Maximum Building Height	40 feet

- (e) Other Permitted Uses. Service buildings, recreation buildings, and other areas or structures providing laundry, sanitation and managerial facilities are permitted and shall serve only the park in which they are located. No such facility shall have direct access to a public street but shall be served by the privately maintained roadway.

- (f) Access and Parking. Paved or gravel, privately maintained roadways must be provided for access to individual units and other facilities located within the park. No manufactured home shall have direct access to a public street.

- (g) Screening and Landscaping. The manufactured home park shall have a screening strip of plant material five adjacent to and within the park boundary extending along the entire perimeter of the park. This requirement may be waived by the Town Board of Commissioners upon the recommendation of the Planning Board along any boundary which is naturally screened by evergreen plant materials or topography. Screening strips shall not be a portion of any manufactured home space, street, or private drive. The park shall be completely screened at a height of four (4) to six (6) feet from the view of adjacent properties. Landscaping shall be provided throughout the park with ample trees and shrubs to provide shade and break up open areas. All banks and open areas shall be grassed.
- (h) One Manufactured Home Per Space. No more than one (1) manufactured home may be parked on any manufactured home space.
- (i) Common Recreation Space. At least eight percent (8%) of the total gross acreage of the park shall be reserved and developed as a common recreation space for the residents of the park. This recreation space shall be identified on all plans and approved by the Planning Board and the Town Board of Commissioners. Such areas shall be adequately lighted for safety.

SECTION 15.101. - MANUFACTURED HOME SPACE REQUIREMENTS (APPLIES TO NEW MANUFACTURED HOME PARKS ONLY)

- (a) Access. Each space shall have access to an interior roadway with a width of at least 18 feet. No space shall have direct access to a public street.
- (b) Clearance. Each space shall be designed so that at least 20 feet clearance will be maintained between units and other structures within the park.
- (c) Setbacks. Manufactured home units shall be located so that at a 25-foot setback is maintained from the centerline of the private interior roadway.
- (d) Minimum Size. A single-wide manufactured home space shall consist of a minimum of 6,500 square feet - 7,500 square feet for double-wide homes.
- (e) Parking. Parking spaces sufficient to accommodate at least two (2) automobiles shall be constructed within each manufactured home space and they shall be graveled or covered with four (4) inches of crushed stone.
- (f) Grading. Each manufactured home space shall be graded and graded areas grassed to prevent erosion and provide adequate storm drainage away from the manufactured home.
- (g) Utilities. Each space shall have hook-up facilities for water, sewer, electricity, and telephone services. All occupied manufactured home units shall have and use sanitary facilities within the manufactured home unit.

SECTION 15.102. - ADDITIONAL REQUIREMENTS

Within a reasonable time (not to exceed six months) after being located in a manufactured home park, each manufactured home shall be underpinned with materials and in a manner approved by the administrative officer.

SECTION 15.103 - APPLICATION PROCEDURE FOR CONDITIONAL USE PERMIT FOR A MOBILE HOME PARK

1. Preliminary Plan: A preliminary plan drawn to a scale of not less than 1" = 200' nor more than 1" = 50 may be submitted to the Town Board of Commissioners prior to application for a permit. The sketch plan should include among other things:
 - (a) location of drives and parking areas;
 - (b) location of manufactured home spaces;
 - (c) location and sizes of service buildings and other service area;
 - (d) topography and contours in areas where major grading will occur; and
 - (e) location, type and size of water supply and sewage systems.

The owner and developer may discuss the proposed manufactured home park plan with the Zoning Enforcement Officer to determine if the proposal meets the requirements and intent of this Ordinance.

2. Final Plan: Applications to the Town Board of Commissioners for a conditional use permit to construct, alter, or enlarge a mobile home park shall be accompanied by a plan for the park, prepared by a registered engineer or architect, drawn to a scale of not less than 1" = 200' nor more than 1" = 50'. Three copies shall be submitted. The plan shall show the following:
 - (a) locations of manufactured home spaces;
 - (b) drives, parking areas, walks, and access to a public street;
 - (c) the name of the manufactured home park, the name(s) and the addresses of the owner(s), the developer if applicable and the designer of the park.
 - (d) date, scale, and approximate North arrow;
 - (e) location and uses of any proposed buildings and building lines;
 - (f) proposed storm drainage plan for the entire manufactured home park;
 - (g) location and dimensions of all recreation areas, open spaces and parks.

- (h) When public water or public sewer is not available, a written statement from the County Health Department shall be submitted with the manufactured home park plan indicating that the manufactured home park has adequate land area and suitable topography and soils to accommodate the proposed methods of water supply and sewage disposal.
- (i) Where a park is to be developed in sections, the plan shall show which part is to be developed initially. No permit shall be issued for the initial establishment of any section of a manufactured home park with less than 5 spaces.

SECTION 15.104. - CERTIFICATE OF OCCUPANCY

When the developer of the manufactured home park is satisfied that construction has been completed in accordance with the terms of the conditional use granted by the Town Board of Commissioners, certification of the completion shall be made, and the site shall be inspected by the Zoning Enforcement Officer or his representative. After completion of the manufactured home park in compliance with the approved plan and other application regulations has been ascertained, the Certificate of Occupancy shall be issued by the Zoning Enforcement Officer.

The manufactured home park shall be maintained in compliance with the terms of the conditional use permit. In the event of violation of the conditional use permit, the Certificate of Occupancy may be revoked for a specific section of a manufactured home park which is in violation or for the manufactured home park in its entirety if necessary.

SECTION 15.105. - ANNUAL INSPECTIONS OF MANUFACTURED HOME PARKS

The Scotland County Health Department and Wagram Zoning Enforcement Officer may conduct as many inspections of mobile home parks as deemed necessary to insure the maintenance of applicable standards. The operators of mobile home parks in the town shall once a year pay an annual inspection fee as posted in the Town Clerk's Office and the Certificate of Occupancy may be revoked if the fee is not paid.

SECTIONS 106 – 110. RESERVED.

ARTICLE 9. - SIGNS

SECTION 15.111 – PURPOSE

It is the purpose of this section to permit signs of a commercial, industrial, and residential nature and to regulate the size and placement of signs which are visible from any public way. These regulations shall apply to all districts. No exterior sign may be erected, painted, repainted, posted, reported, placed, replaced or hung in any district, except in compliance with these regulations.

SECTION 15.112 -GENERAL PROVISIONS

- (a) **Permit Required.** With the exception of those signs specifically authorized in Section 15.113 below, no sign may be erected without a permit from the Zoning Enforcement Officer.
- (b) **Permit Application.** Application for permits shall be submitted on forms obtainable at the Office of the Zoning Enforcement Officer. Each application shall be accompanied by plan which shall:
 - (1) indicate the proposed site by identifying the property by ownership, location and use;
 - (2) show the location of the sign on the lot in relation to property lines and building, zoning district boundaries, right-of-way lines, and existing signs; and
 - (3) show size, character, complete structural specifications and methods of anchoring and support.If conditions warrant, the Zoning Enforcement Officer may require such additional information as will enable him to determine if such sign is to be erected in conformance with this Ordinance.
- (c) **Structural Requirements.** Structural Requirements for signs shall be those requirements found in the North Carolina State Building Code.
- (d) **Sign Area Computation.** Sign area shall be computed by the smallest square, triangle, rectangle, circle or combination thereof which will encompass the entire sign, including lattice work, wall work, frame or supports incidental to its decoration. In computing the area, only one (1) side of a double face sign structure shall be considered.
- (e) **Fees.**
 - (1) No permit shall be issued until the exact dimensions and area of the sign have been filed with the Zoning Enforcement Officer and the fees posted in the Town Clerk's office paid accordingly.
 - (2) Exempt from this fee requirement shall be those signs specified in Section 15.113 below
- (f) **Maintenance.** All signs, together with all their supports and braces, shall be kept in a state of good repair and in a neat and clean condition. No sign shall be continued which becomes, in the opinion of the Zoning Enforcement Officer, structurally unsafe and endangers the safety of the public or property. The Zoning

Enforcement Officer may order the removal of any sign that is not maintained in accordance with the provisions of this section. Such removal shall be at the expense of the owner or lessee and shall occur within ten days after written notification thereof by the Zoning Enforcement Officer. If such order is not complied with in thirty (30) days the Zoning Enforcement Officer shall remove such at the expense of the owner or lessee thereof.

(g) **Location Restrictions.**

- (1) No sign shall be permitted on any public right-of-way except as specifically authorized herein.
- (2) No sign (including temporary signs) shall be attached to or painted neither on any telephone pole, telegraph pole, power pole, or other man-made object not intended to support a sign, nor on any tree, rock or other natural object except as specifically authorized herein. In addition, signs shall not be allowed to be attached to a building facade unless they advertise the specific business conducted therein.
- (3) Signs shall not obstruct any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress or egress for any building, structure, or lot.

(h) **Setback and Height Requirements.**

- (1) Except as otherwise provided herein, signs are required to observe the same yard setback and height regulations as other principal structures or buildings.
- (2) If the lot on which a ground sign is to be located is zoned other than residential, but is immediately adjacent to a lot zoned for residential use, then a distance of at least fifty (50) feet shall intervene between the closest part of such sign and the adjacent lot line of the property in the residential district. Provided further, that all out-door advertising signs shall conform to Section 9.5.

(i) **Murals.** Decorative murals shall be fully described on the sign permit and shall be in character with their surroundings.

(j) **Non-Conforming Signs.** No non-conforming sign erected before the adoption of this Ordinance shall be moved or replaced, without complying with the provisions of this Ordinance. All signs existing on the effective date of this article which do not conform to the requirements set forth herein shall be removed or brought into compliance within thirty-six months (36) from the effective date hereof; however, a non-conforming business or industry shall, after the three year period, be allowed one sign not exceeding 12 square feet on a side or a total of twenty square feet, which sign shall be affixed to the building and have only non-flashing illumination.

Any nonconforming sign in a non-residential district which is nonconforming only with respect to the sign area requirements shall have five (5) years to conform to the provisions of this Ordinance.

SECTION 15.113. - SIGNS NOT REQUIRING A PERMIT FROM THE ZONING ENFORCEMENT OFFICER

- (a) **Types of Signs:** The signs listed below shall not require a permit from the Zoning Enforcement Officer. However, all signs using electrical wiring and connection shall require an electrical permit.
1. **Directional and information signs** erected and maintained by public agencies and governmental bodies.
 2. **Quasi-public signs**, not to exceed four (4) square feet in area. Such signs shall only be used for the purpose of stating or calling attention to:
 - (i) the name or location of the city, hospital, community center, public or private school, church, synagogue, or other place of worship;
 - (ii) the name of a place of meeting or an official or civic body such as the Chamber of Commerce, service club, or fraternal organization.
 - (iii) an event of public interest such as public hearing, rezoning, announcement, general election, church or public meeting; local or county fair; and other similar community activities and campaigns;
 - (iv) soil conservation, 4-H and similar projects; and zoning and subdivision jurisdiction boundaries;
 - (v) political campaigns provided that such signs shall be removed within one week following the election or town staff may be required to remove the signs and charge a fee posted in town hall;
 - (vi) yard sales providing the signs are posted on the premises where the sales are to be held, not more than one week prior to the sale and removed the day following the sale.
 3. **Professional and Home Occupations Signs:**
 - (i) one sign per lot not to exceed two (2) square feet attached to the principal structure.
 - (ii) one sign per lot not to exceed two (2) square feet located at least ten (10) feet from the street line and side property lines. Where side yards are required, no such sign shall be permitted in the required side yards.
 - (iii) no such signs shall be illuminated in any residential district.
 4. **Temporary Subdivision Sign.** Subdivision development signs, not over sixty-four (64) square feet in area which direct attention to the opening of a new subdivision may be erected on the site of such new subdivision. Only indirect illumination with white light will be permitted. Such sign shall be removed when seventy-five (75) percent of the subdivision is sold.

5. **Bulletin Board.** One bulletin board for each school or other public building and for each church, synagogue or place of worship, provided that it is located on the same premises and shall not exceed fifty (50) square feet. Such bulletin board may be free standing or attached. In residential districts, illumination of bulletin boards shall be white, non-flashing lights.
6. **Temporary Signs.**
- (i) **Real Estate:**
One (1) temporary real estate sign not exceeding four (4) square feet in area may be placed on a property that is for sale, lease, rent, or barter; however, when the property on which said sign is placed fronts on more than one (1) street, one (1) sign shall be allowed on each street frontage. Such signs shall not be illuminated.
- (ii) **Other Temporary Advertising Signs:**
Temporary advertising signs shall be permitted providing that such signs shall not exceed six (6) square feet in area in residential districts and shall be spaced no closer than 100 feet apart.
- (iii) **Construction Signs:**
One (1) temporary construction sign may be erected on the site during the period of construction or reconstruction to announce the name of the owner and/or developer, the name of the structure and its use or occupants to be, contractor, subcontractor, architect, and engineer; however, when the property on which said sign is placed fronts on more than one (1) street, one (1) sign shall be allowed on each street frontage. Such signs shall be removed when the building has been approved for occupancy by the Zoning Enforcement Officer. Maximum size of construction signs in the residential zone shall be twenty-four (24) square feet; in all other zones, seventy-two (72) square feet.
- (b) **Setback Requirements for Signs Not Requiring a Building Permit**
Signs which do not require a permit from the Zoning Enforcement Officer shall be set back at least ten (10) feet from any public right-of-way line or property line and shall be setback at least twenty-five (25) feet from any road intersection.

SECTION 15.114. - PERMANENT SIGNS FOR SUBDIVISION

One permanent subdivision sign per major entrance is permitted. Exception: if a subdivision name sign is incorporated into gateposts, brick walls, or similar structures making the entrance, the name may appear on both sides of the entrance as a substitute for other subdivision identification signs.

- (a) Total area per entrance is sixty-four (64) square feet.
- (b) Signs shall be placed on private property no closer than ten (10) feet to any property line.
- (c) Illumination is restricted to white indirect lighting.
- (d) Content of sign is limited to the name of the subdivision.

SECTION 15.115. - BUSINESS AND INDUSTRIAL SIGNS

Business and industrial signs shall be permitted on the premises in districts in which the principal use is permitted subject to the following limitations:

- (a) They shall not project more than 1 foot from any building wall or canopy.
- (b) If suspended from a canopy, the sign must be at least eight (8) feet above the sidewalk level.
- (c) Non-illuminated signs shall have a total surface area in square feet per establishment no greater than two (2) times the street frontage of the lot, in feet, but in no case shall the total for all signs be greater than 100 square feet.
- (d) Illuminated signs shall have a total sign surface area in square feet per establishment, no greater than (2) times the street frontage of the lot, in feet, but in no case shall the total for signs be greater than 50 square feet. Display lighting shall be shielded so as to prevent a direct view of the light source from a residence in a residential district. No intermittent lighting effect may be utilized.
- (e) Freestanding signs shall be located not less than 12 feet from the street lot line or behind the setback line, whichever is greater. No freestanding sign shall be located in a required side yard or within 10 feet of the side property line. If a freestanding sign is utilized, the total allowable sign area may be increased by 25 percent.
- (f) One freestanding shopping center identification sign is permitted per shopping center. The maximum area per sign is 200 square feet for centers having up to 15 businesses and 300 square feet for centers having more than 15 businesses.
- (g) One manufactured home park sign is permitted per major entrance to a mobile home park. Area of each sign shall not be more than one-half square foot per manufactured home space, but not to exceed fifty (50) square feet. Setback shall be at least 10 feet from the front property line; illumination is restricted to indirect white lighting.

SECTION 15.116. - OUTDOOR ADVERTISING SIGNS

Outdoor advertising signs are allowed as a conditional use in the Industrial District subject to the provisions of this Ordinance and the following limitations:

- (a) They meet all requirements of the industrial district applying to the principal structures with regard to yards, setbacks, and height requirements.
- (b) Such signs shall not be located within 100 feet of any residential district.
- (c) No two outdoor advertising signs shall be spaced less than 300 feet apart.
- (d) Maximum area of any outdoor advertising sign is six hundred seventy-two (672) square feet.

SECTIONS 15-117 – 15-120. – RESERVED

ARTICLE 10. - WIRELESS COMMUNICATION FACILITY DEVELOPMENT

SECTION 15-121. – PURPOSE AND LEGISLATIVE INTENT.

The purpose of this Wireless Telecommunications Ordinance is to provide for the public health, safety and welfare by ensuring that residents, businesses and public safety operations in the Town of Wagram have reliable access to telecommunications networks and state of the art mobile broadband communications services while also ensuring that this objective is accomplished according to the Town of Wagram's zoning, planning and design standards. To accomplish the above stated objectives and to ensure that the placement, construction or modification of wireless telecommunications facilities complies with all applicable federal laws, including without limitation Section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47U.S.C. 1455(a), which, among other things, creates a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures, the Town of Wagram adopts this single, comprehensive wireless telecommunications ordinance. By enacting this Ordinance it is the town's intent to ensure Wagram has sufficient wireless infrastructure to support its public safety communications throughout the Town of Wagram and to ensure access to reliable wireless communications services throughout all areas of the Town.

SECTION 15-122. – DEFINITIONS.

For the purposes of this Ordinance, the following definitions apply:

Abandonment – Cessation of use of a wireless support structure for wireless telecommunications activity for at least the minimum period of time specified under this ordinance.

Accessory Equipment - Any equipment serving or being used in conjunction with a wireless facility or wireless support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

Administrative Approval - Approval that the Zoning Enforcement Officer or designee is authorized to grant after administrative review.

Administrative Review - Non-discretionary evaluation of an application by the Zoning Enforcement Officer or designee. This process is not subject to a public hearing. The procedures for administrative review are established in Section IV., below, of this Article.

Antenna - Communications equipment that transmits, receives or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

Base Station - A station at a specific site authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics.

Carrier on Wheels or Cell on Wheels (COW) - A portable self-contained wireless facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the antenna support structure.

Collocation - The placement or installation of wireless facilities on existing structures, including electrical transmission towers, water towers, buildings and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes.

Concealed Wireless Facility - Any wireless facility that is integrated as an architectural feature of an existing structure or any new wireless support structure designed to camouflage or conceal the presence of antennas or towers so that the purpose of the facility or wireless support structure is not readily apparent to a casual observer.

Electrical Transmission Tower - An electrical transmission structure used to support high voltage overhead power lines. The term shall not include any utility pole.

Eligible Facilities Request – A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

Equipment Compound - An area surrounding or near the base of a wireless support structure within which are located wireless facilities.

Existing Structure - A wireless support structure, erected prior to the application for an eligible facilities request, collocation or substantial modification under this ordinance that is capable of supporting the attachment of wireless facilities. The term includes but is not limited to, electrical transmission towers, buildings and water towers. The term shall not include any utility pole.

Fall Zone - The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

Monopole – A single, freestanding pole-type structure supporting one or more antennas. For the purposes of this Ordinance, a monopole is not a tower or a utility pole.

Ordinary Maintenance - Ensuring that wireless facilities and wireless support structures are kept in good operating condition. Ordinary maintenance includes inspections, testing and modifications that maintain functional capacity and structural integrity; for example, the strengthening of a wireless support structure's foundation or of the wireless support structure itself. Ordinary maintenance includes replacing antennas of a similar size, weight, shape and color and accessory equipment within an existing equipment compound and relocating the antennas to different height levels on an existing monopole or tower upon which they are currently located. Ordinary maintenance does not include substantial modifications.

Replacement Pole – Pole of equal proportions and of equal height or such other height that would not constitute a substantial modification to an existing structure in order to support wireless facilities or to accommodate collocation. Requires removal of the wireless support structure it replaces.

Substantial Modification - The mounting of a proposed wireless facility or wireless facilities on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the following criteria:

- (i) increases the existing vertical height of the wireless support structure by (a) more than ten percent (10%), or (b) the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater;
- (ii) adds an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure more than twenty (20) feet, or more than the width of the wireless support structure at the level of the appurtenance, whichever is greater (except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable);
- (iii) increases the square footage of the existing equipment compound by more than 2,500 square feet.

Tower - A lattice-type structure, guyed or freestanding, that supports one or more antennas.

Utility Pole - A structure owned and/or operated by a public utility, municipality, electric membership corporation or rural electric cooperative that is designed specifically for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

Water Tower - A water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

Wireless Facility or Wireless Facilities - The set of equipment and network components, exclusive of the underlying wireless support structure, including, but not limited to, antennas, accessory equipment, transmitters, receivers, base stations, power supplies, cabling and associated equipment necessary to provide wireless telecommunications services.

Wireless Support Structure - A freestanding structure, such as a monopole or tower, designed to support wireless facilities. This definition does not include utility poles.

SECTION 15-123. – APPROVALS REQUIRED FOR WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES.

(a) **Administrative Review and Approval.** The following types of applications are subject to the review process as provided in Section 11-134. No other type of zoning or site plan review is necessary:

- (1) New wireless support structures that are less than sixty (60) feet in height, in any zoning district;
- (2) New wireless support structures that are less than two hundred (200) feet in height, in any Industrial District;
- (3) Concealed wireless facilities that are sixty (60) feet or less in height, in any residential district;

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- (4) Concealed wireless facilities that are one hundred fifty (150) feet or less in height, in any zoning district except residential districts;
 - (5) Monopoles or replacement poles located on public property or within utility easements or rights-of-way, in any zoning district;
 - (6) COWs, in any zoning district, if the use of the COW is either not in response to a declaration of an emergency or disaster by the Governor, or will last in excess of one hundred-twenty (120) days;
 - (7) Substantial modifications;
 - (8) Collocations.
- (b) **Conditional Use Permit.** Any application for wireless facilities and/or wireless support structures not subject to administrative review and approval pursuant to this Ordinance shall be permitted in any district upon the granting of a conditional use permit from the Board of Adjustment in accordance with the standards for granting conditional use permits set forth in applicable the Town of Wagram ordinances.
- (c) **Exempt from All Approval Processes.** The following are exempt from all the Town of Wagram zoning approval processes and requirements:
- (1) Removal or replacement of transmission equipment on an existing wireless tower or base station that does not result in a substantial modification as defined in this ordinance.
 - (2) Ordinary maintenance of existing wireless facilities and wireless support structures, as defined in this Ordinance;
 - (3) Wireless facilities placed on utility poles; and
 - (4) COWs placed for a period of not more than one hundred twenty (120) days at any location within the town or after a declaration of an emergency or a disaster by the Governor.

SECTION 15-124. – ADMINISTRATIVE REVIEW AND APPROVAL PROCESS.

- (a) **Content of Application Package-For New Sites.** All administrative review application packages must contain the following:
- (1) Administrative review application form signed by applicant;
 - (2) Copy of lease or letter of authorization from property owner evidencing applicant's authority to pursue application. Such submissions need not disclose financial lease terms; and
 - (3) Site plans detailing proposed improvements which complies with the Town's existing site plan requirements. Drawings must depict improvements related to the applicable requirements including property boundaries, setbacks, topography, elevation sketch, and dimensions of improvements.

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- (4) Documentation from a licensed professional engineer of calculation of the fall zone and certification that the wireless support structure has sufficient structural integrity to accommodate the required number of additional users as provided in this ordinance.
- (b) **Content of Application Package-For Other Sites/Facilities.** All administrative review application packages must contain the following:
- (1) Administrative review application form signed by applicant;
 - (2) For collocations and substantial modifications, written verification from a licensed professional engineer certifying that the host support structure is structurally and mechanically capable of supporting the proposed additional antenna or configuration of antennas.
 - (3) For substantial modifications, drawings depicting the improvements along with their dimensions.
- (c) **Fees.** The total fees for an administrative review application shall be established from time to time by the Board of Commissioners and included in the Town's schedule of Fees.
- (d) **Procedure and Timing.**
- (1) **Applications for Collocation, Monopole or Replacement Pole, Concealed Wireless Facility, Non-exempt COW or Substantial Modification.** Within thirty (30) days of the receipt of an application for a collocation, a monopole or replacement pole, a concealed wireless facility, a non-exempt COW or a substantial modification, the Zoning Enforcement Officer will:
 - (a) Review the application for conformity with this Ordinance. An application under this Section IV.D.1 is deemed to be complete unless the [Zoning Enforcement Officer] notifies the applicant in writing, within ten (10) calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take ten (10) calendar days from receiving such notice to cure the specific deficiencies. If the applicant cures the deficiencies within ten (10) calendar days, the application shall be reviewed and processed within thirty (30) calendar days from the initial date the application was received. If the applicant requires a period of time beyond ten (10) calendar days to cure the specific deficiencies, the thirty (30) calendar days deadline for review shall be extended by the same period of time;
 - (b) Make a final decision to approve the collocation application or approve or disapprove other applications under this subsection; and
 - (c) Advise the applicant in writing of its final decision. If the Zoning Enforcement Officer denies an application, he/she must provide written justification of the denial, which must be based on substantial evidence of inconsistencies between the application and this Ordinance.

(d) Failure to issue a written decision within thirty (30) calendar days shall constitute an approval of the application.

(2) **Applications for New Wireless Support Structures That Are Subject to Administrative Review and Approval.** Within forty five (45) calendar days of the receipt of an application for a new wireless support structure that is subject to administrative review and approval under this Ordinance, the Zoning Enforcement Officer will:

(a) Review the application for conformity with this Ordinance. An application under this Section 15-124(d)(2) is deemed to be complete unless the Zoning Enforcement Officer notifies the applicant in writing, within fifteen (15) calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take fifteen (15) calendar days from receiving such notice to cure the specific deficiencies. If the applicant cures the deficiencies within fifteen (15) calendar days, the application shall be reviewed and processed within forty five (45) calendar days from the initial date the application was received. If the applicant requires a period of time beyond fifteen (15) calendar days to cure the specific deficiencies, the forty five calendar days deadline for review shall be extended by the same period of time;

(b) Make a final decision to approve or disapprove the application; and

(c) Advise the applicant in writing of its final decision. If the Zoning Enforcement Officer denies an application, he/she must provide written justification of the denial, which must be based on substantial evidence of inconsistencies between the application and this Ordinance.

(d) Failure to issue a written decision within forty five (45) calendar days shall constitute an approval of the application.

(3) **Building Permit.** A Building Inspector shall issue a building permit following approval of the application under administrative review in accordance with the process and standards in this Ordinance.

SECTION 15-125. – CONDITIONAL USE PERMIT PROCESS.

(a) Any wireless facility or wireless support structures not meeting the requirements of Section 15-123(a) or (c) above, may be permitted in all zoning districts upon the granting of a Conditional Use Permit, subject to:

(1) The submission requirements of Section 15-125(b) below; and

(2) The applicable standards of Section 15-126 below; and

(3) The requirements of the conditional use permit general conditions at Article 11 of this Chapter.

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- (b) Content of Conditional Use Permit Application Package. All conditional use permit application packages must contain the following:
- (1) Conditional use permit application form signed by applicant;
 - (2) Copy of lease or letter of authorization from the property owner evidencing applicant's authority to pursue zoning application. Such submissions need not disclose financial lease terms;
 - (3) Written description and scaled drawings of the proposed wireless support structure or wireless facility, including structure height, ground and structure design, and proposed materials;
 - (4) Number of proposed antennas and their height above ground level, including the proposed placement of antennas on the wireless support structure;
 - (5) Line-of-sight diagram or photo simulation, showing the proposed wireless support structure set against the skyline and viewed from at least four (4) directions within the surrounding areas;
 - (6) A statement that the proposed wireless support structure will be made available for collocation to other service providers at commercially reasonable rates, provided space is available and consistent with Section 15-126 (a)(1)(a) of this Ordinance; and
 - (7) Notification of surrounding property owners and posting as required by this Code.
- (c) Fees. The fees for reviewing the conditional use permit shall be set from time to time by the Board of Commissioners and included in the Schedule of Fees.
- (d) Procedure and Timing. Within one hundred fifty (150) calendar days of the receipt of an application under Section 15-124 of this Ordinance, the Zoning Enforcement Officer will:
- (1) Complete the process for reviewing the application for conformity with ordinances applicable to conditional use permits, including conducting a hearing in accordance with the requirements of the ordinance. An application under this Section V. is deemed to be complete unless the [Zoning Enforcement Officer] notifies the applicant in writing, within thirty (30) calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take thirty (30) calendar days from receiving such notice to cure the specific deficiencies. If the applicant cures the deficiencies within thirty (30) calendar days, the application shall be reviewed and processed within one hundred fifty (150) calendar days from the initial date the application was received. If the applicant requires a period of time beyond thirty (30) calendar days to cure the specific deficiencies, the one hundred fifty (150) calendar days deadline for review shall be extended by the same period of time;
 - (2) Make a final decision to approve or disapprove the application; and
 - (3) Advise the applicant in writing of its final decision. If the Zoning Enforcement Officer denies an application, it must provide written justification of the denial.

(4) Failure to issue a written decision within one hundred fifty (150) calendar days shall constitute an approval of the application.

SECTION 15-126. – GENERAL STANDARDS AND DESIGN REQUIREMENTS.

(a) Design

(1) Wireless support structures shall be subject to the following:

(a) Shall be engineered and constructed to accommodate a minimum number of collocations based upon their height:

(i) Support structures sixty (60) to one hundred (100) feet shall support at least two (2) telecommunications providers;

(ii) Support structures greater than one hundred (100) feet but less than one hundred-fifty feet (150) shall support at least three (3) telecommunications providers;

(iii) Support structures greater than one hundred-fifty (150) feet in height shall support at least four (4) telecommunications carriers.

(b) The equipment compound area surrounding the wireless support structure must be of sufficient size to accommodate accessory equipment for the appropriate number of telecommunications providers in accordance with subsection (a) above.

(2) Concealed wireless facilities shall be designed to accommodate the collocation of other antennas whenever economically and technically feasible. Antennas must be enclosed, camouflaged, screened, obscured or otherwise not readily apparent to a casual observer.

(3) Upon request of the applicant, the Zoning Enforcement Officer may waive the requirement that new wireless support structures accommodate the collocation of other service providers if it finds that collocation at the site is not essential to the public interest, or that the construction of a shorter support structure with fewer antennas will promote community compatibility.

(4) A monopole or replacement pole shall be permitted within utility easements or rights-of-way, in accordance with the following requirements:

(a) The utility easement or right-of-way shall be a minimum of one hundred (100) feet in width.

(b) The easement or right-of-way shall contain overhead utility transmission and/or distribution structures that are eighty (80) feet or greater in height.

(c) The height of the monopole or replacement pole may not exceed by more than thirty (30) feet the height of existing utility support structures.

(d) Monopoles and the accessory equipment shall be set back a minimum of fifteen (15) feet from all boundaries of the easement or right-of-way.

(e) Single carrier monopoles may be used within utility easements and rights-of-way due to the height restriction imposed by Subsection (c) above.

(f) Poles that use the structure of a utility tower for support are permitted. Such poles may extend up to twenty (20) feet above the height of the utility tower.

(b) Setbacks

(1) Unless otherwise stated herein, each wireless support structure shall be set back from all property lines a distance equal to its engineered fall zone.

(c) Height

(1) In residential districts, wireless support structures shall not exceed a height equal to one hundred ninety-nine (199) feet from the base of the structure to the top of the highest point, including appurtenances. Notwithstanding the foregoing, the Zoning Board shall have the authority to vary the foregoing height restriction upon the request of the applicant. With its waiver request the applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the satisfaction of the Zoning Board.

(d) Aesthetics

(1) Lighting and Marking. Wireless facilities or wireless support structures shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).

(2) Signage. Signs located at the wireless facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited. Notwithstanding the foregoing, nothing in this Ordinance shall prohibit signage that is approved for other uses on property on which wireless facilities are located (e.g., approved signage at locations on which concealed facilities are located).

(e) **Accessory Equipment.** Accessory equipment, including any buildings, cabinets or shelters, shall be used only to house equipment and other supplies in support of the operation of the wireless facility or wireless support structure. Any equipment not used in direct support of such operation shall not be stored on the site.

(f) Fencing

(1) Ground mounted accessory equipment and wireless support structures shall be secured and enclosed with a fence not less than six (6) feet in height as deemed appropriate by the Zoning Enforcement Officer.

(2) The Zoning Enforcement Officer may waive the requirement of Section 15-126 (f) if it is deemed that a fence is not appropriate or needed at the proposed location.

SECTION 15-127. – MISCELLANEOUS PROVISIONS.

- (a) Abandonment and Removal. If a wireless support structure is abandoned, and it remains abandoned for a period in excess of twelve (12) consecutive months, the Town of Wagram may require that such wireless support structure be removed only after first providing written notice to the owner of the wireless support structure and giving the owner the opportunity to take such action(s) as may be necessary to reclaim the wireless support structure within sixty (60) days of receipt of said written notice. In the event the owner of the wireless support structure fails to reclaim the wireless support structure within the sixty (60) day period, the owner of the wireless support structure shall be required to remove the same within six (6) months thereafter. The Town of Wagram shall ensure and enforce removal by means of its existing regulatory authority, with costs of removal charged to the owner.
- (b) Multiple Uses on a Single Parcel or Lot. Wireless facilities and wireless support structures may be located on a parcel containing another principal use on the same site or may be the principal use itself.

SECTION 15-128. – WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES IN EXISTENCE ON THE DATE OF ADOPTION OF THIS ORDINANCE.

- (a) Wireless facilities and wireless support structures that were legally permitted on or before the date this Ordinance was enacted shall be considered a permitted and lawful use.
- (b) Activities at Non-Conforming Wireless Support Structures. Notwithstanding any provision of this Ordinance:
- (1) Ordinary maintenance may be performed on a non-conforming wireless support structure or wireless facility.
 - (2) Collocation of wireless facilities on an existing non-conforming wireless support structure shall not be construed as an expansion, enlargement or increase in intensity of a non-conforming structure and/or use and shall be permitted through the administrative approval process defined in Section IV; provided that the collocation does not substantially modify the size of the equipment compound at that location or otherwise substantially modify the existing non-conformity.
 - (3) Substantial modifications may be made to non-conforming wireless support structures utilizing the conditional use permit process defined in Section V of this Ordinance.

SECTIONS 15-129. – 15-135. – RESERVED.

ARTICLE 11. - CONDITIONAL USES

SECTION 15-136. - PURPOSE

The development and execution of this ordinance is based on the division of the Town of Wagram into districts within which the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are some land uses which are basically in keeping with the intent and purposes of the district where conditional, but which may have an impact on the area around them which can only be determined by review of the specific proposal. These uses may be established, under certain conditions and with proper controls, in such a manner as to minimize any adverse effects. In order to insure that these uses, in their proposed locations, would be compatible with surrounding development and in keeping with the purposes of the district in which they are located, their establishment shall not be as a matter of right, but only after review and approval of a Conditional Use Permit preceded by a Public Hearing.

SECTION 15-137. - APPLICATION FOR CONDITIONAL USE

Applications for Conditional Use Permits, signed by the applicant, shall be addressed to the Planning Board. A fee as posted in the Town Clerk's office shall be paid to the Town of Wagram for each application to cover the costs of advertising and administrative costs. Each application shall contain or be accompanied by such legal descriptions, maps, plans and other information so as to completely describe the proposed use and existing conditions.

The applicant shall provide to the Zoning Enforcement Officer a list of names and addresses of all adjacent property owners, at least eight (8) days prior to the public hearing. The Zoning Enforcement Officer shall then mail a copy of the legal notice to each adjacent property owner.

SECTION 15-138. - PUBLIC HEARING

The Planning Board, through the Zoning Enforcement Officer, shall schedule a public hearing on the application for a Conditional Use Permit to be held within 60 days after the application is filed. Public notice of the hearing shall be published in a newspaper of general circulation in the town at least once each week for two successive weeks prior to the public hearing. The notice shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date fixed for the hearing. The Zoning Enforcement Officer shall also post notice on the property involved for a period of one week prior to the hearing.

SECTION 15-139. - ACTION BY THE PLANNING BOARD

The Planning Board shall review the application and conduct the public hearing.

The Planning Board shall approve, modify or deny the application for Conditional Use Permit following the public hearing. In granting a Conditional Use Permit the Planning Board shall make written findings that the applicable regulations of the district in which it is located are fulfilled. With due regard to the nature and state of all adjacent structures and uses, the district within which same is located, and official plans for future development, the Planning Board shall also make written findings that the following provisions are fulfilled:

- (a) The use requested is listed among the conditional uses in the district for which application is made; or is similar in character to those listed in that district;
- (b) The requested use is essential or desirable to the public convenience or welfare;
- (c) The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor be detrimental to the health, morals, or welfare;
- (d) The requested use will be in conformity with the Land Development Plan;
- (e) Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided;
- (f) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
- (g) That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

After approval by the Planning Board, or upon appeal after denial by the Planning Board, the request shall be submitted to the Town Board of Commissioners for final approval. No Conditional Use Permit shall be issued until after review and approval by the Town Board of Commissioners.

SECTION 15-140. - CONDITIONS AND GUARANTEES

Prior to the granting of any conditional use, the Planning Board may recommend, and the Town Board of Commissioners may stipulate, such conditions and restrictions upon the establishment, location, reconstruction, maintenance, and operation of the conditional use as it deemed necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

- (a) Such conditions may include a time limitation;
- (b) Conditions may be imposed which require that one or more things be done before the use requested can be initiated. For example, "that a solid board fence be erected around the site to a height of six (6) feet before the use requested is initiated";
- (c) Conditions of a continuing nature may be imposed. For example, "exterior loud speakers shall not be used between hours of 10:00 p.m. and 9:00 p.m.".
- (d) The Planning Board may not, however, in accordance with NC Gen Stat. §160A-381 apply conditions on building design elements for any structure subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings, unless voluntarily consented to by the owners, except under one or more of the following instances:
 - i. The structures are located in an area designated as a local historical district pursuant to Part 3C of Article 19 of Chapter 160A of the General Statutes.
 - ii. The structures are located in an areas designated as a historic district on the National Register of Historic Places.
 - iii. The structures are individually designated as local, State, or national historic landmarks.

- iv. The regulations are directly and substantially related to the requirements of applicable safety codes adopted under G.S. 143-138.
 - v. Where the regulations are applied to manufactured housing in a manner consistent with G.S. 160A-383.1 and federal law.
 - vi. Where the regulations are adopted as a condition of participation in the National Flood Insurance Program.
- i. For the purposes of subsection (d) above, the phrase “building design element” means exterior building color; type or style of exterior cladding material; style or materials of roof structures or porches; exterior nonstructural architectural ornamentation; location or architectural styling of windows and doors, including garage doors; the number and types of rooms; and the interior layout of rooms. The phrase “building design element” does not include any of the following: (i) the height, bulk, orientation, or location of a structure on a zoning lot; (ii) the use of buffering or screening to minimize visual impacts of light and noise, or to protect the privacy of neighbors; or (iii) regulations adopted pursuant to NC Gen Stat. §160A-381 governing the permitted uses of land or structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings.

SECTION 15-141. - GENERAL PROVISIONS IN GRANTING CONDITIONAL USE PERMITS

A. COMPLIANCE WITH OTHER CODES

Granting of a Conditional Use Permit does not exempt applicant from complying with all of the requirements of building codes and other ordinances.

B. REVOCATION

In any case where the conditions of a Conditional Use Permit have not been or are not being complied with, the Zoning Enforcement Officer shall give the permittee notice of intention to revoke such permit at least ten (10) days prior to a Town Board of Commissioners review thereof. After conclusion of the review, the Town Board of Commissioners of Commission may revoke such permit.

C. EXPIRATION

In any case where a Conditional Use Permit has not been exercised within the time limit set by the Town Board of Commissioners, or within one (1) year if no specific time limit has been set, then without further notice, the permit shall be null and void. "Exercised" as set forth in this section shall mean that binding contracts for the construction of the main building have been let; or in the absence of contracts that the main building is under construction to a substantial degree; or that prerequisite conditions involving substantial investment are contracted for, in substantial development, or completed (sewerage, drainage, etc.). When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the condition set forth in the permit.

D. DURATION OF CONDITIONAL USE

Any conditions imposed in a conditional use authorized and exercised shall be perpetually binding upon the property unless expressly limited by the Conditional Use Permit or subsequently changed or amended by the Planning Board after a public hearing.

SECTIONS 15-142. – 15-145. - RESERVED

ARTICLE 12. - SOLAR ENERGY FACILITY

SECTION 15-146. - PURPOSE.

The purpose of this ordinance is to facilitate the construction, installation, and operation of Solar Energy Systems (SESs) in the Town of Wagram in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands, endangered species habitats, conservation lands, and other sensitive lands. It is the intent of this ordinance to encourage the development of SESs that reduce reliance on foreign and out-of-state energy resources, bolster local economic development and job creation, support the diversification of the state's energy portfolio, strengthen energy and grid security, reduce greenhouse gas emissions, reduce local air and water pollution, and aid North Carolina in meeting its Renewable Portfolio Standard. This ordinance is not intended to abridge safety, health or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions of this ordinance shall not be deemed to nullify any provisions of local, state or federal law.

SECTION 15-147. – DEFINITIONS.

Solar Energy System (SES) - the components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems. A system fits into one of three system types: Level 1 SES, Level 2 SES, and Level 3 SES.

- (a) **Level 1 Solar Energy System** - Level 1 SESs include the following:
1. Roof-mounted on any code-compliant structure.
 2. Ground-mounted on an area of up to 50% of the footprint of the primary structure on the parcel but no more than 1 acre.
 3. Covering permanent parking lot and other hardscape areas.
 4. Building integrated solar (i.e., shingle, hanging solar, canopy, etc.).
- (b) **Level 2 Solar Energy System** - Level 2 SESs are ground-mounted systems not included in Level 1 that meet the area restriction listed below:
1. Agricultural-Residential: SES \leq 1/2 acres
 2. Residential: SES \leq 1/2 acre
 3. Residential Mobile Home/Residential Mobile Home-1: SES \leq 1/2 acre
 4. Residential Multi-Family: SES \leq 1/2 acre
 5. General Business/General Business-1/Central Business: SES \leq 10 acres
 6. Office and Professional: SES \leq 1/2 acre
 7. Industrial: SES of any size
- (c) **Level 3 Solar Energy System** – Level 3 SESs are systems that do not satisfy the parameters for a Level 1 or Level 2 Solar Energy System.

SECTION 15-148. – APPLICABILITY.

- (a) This ordinance applies to the construction of any new SES within the jurisdiction of the Town.
- (b) An SES established prior to the effective date of this ordinance shall remain exempt:
- a. Exception: Modifications to an existing SES that increases the SES area by more than 5% of the original footprint or changes the solar panel type (e.g. photovoltaic to solar thermal) shall be subjected to this ordinance.
- (c) Maintenance and repair are not subject to this ordinance.
- (d) This ordinance does not supersede regulations from local, state, or federal agencies. Some important examples of such regulations include, but are not limited to:
1. **Building/Electrical Permits Required**
Nothing in this ordinance modifies already established building standards required to construct a SES.
 2. **Onsite Wastewater System Avoidance**
Nothing in this ordinance modifies already established Department of Health and Human Services requirements. A SES shall not be constructed over onsite waste water systems (e.g. septic systems) unless approved by the Department of Health and Human Services.
 3. **Storm water Permit Required**
Nothing in this ordinance modifies the requirements or exempts any SES of complying with the various storm water jurisdictions and regulations established by the Department of Environment and Natural Resources. North Carolina statute requires the acquisition of storm water permits for construction projects that impact storm water runoff.
 4. **Historic Districts**
Nothing in this ordinance modifies already established State Historic Preservation Office requirements. May require additional permitting (certificates of appropriateness) to install solar in Historic Districts.

SECTION 15-149. – PERMITS REQUIRED.

The type of permit required for an SES is displayed in **Table 1**.

Table 1: Permit Requirements

Types of Permits Required: P= Permitted Use; C= CUP= Conditional Use Permit					
Zoning District	Residential R-20	Residential Mobile Home/ RMH-20	Central Business	Thoroughfare Business	Light Industrial
Solar Energy Facilities					
Roof-mounted, parking lot cover, or building integrated (Level 1)	P	P	P	P	P
Zoning District	Residential R-20	Residential Mobile Home/ RMH-20	Central Business	Thoroughfare Business	Light Industrial
Ground-mounted:					
up to 50% of the footprint of the primary structure (Level 1)	P	N/A	N/A	P	P
≤1/2 acre (Level 2)	C	N/A	N/A	C	C
≤10 acres (Level 2 or 3)	C	N/A	N/A	C	N/A
>10 acres (Level 2 or 3)	C	N/A	N/A	C	N/A

SECTION 15-150. – PARCEL LINE SETBACKS.

Table 2. below provides the Parcel Line setback to ground mounted SES equipment, excluding any security fencing, poles, and wires necessary to connect to facilities of the electric utility.

Table 2: Parcel Line Setbacks

Zoning District	Level 1	Level 2	Level 3		
			Front	Side	Rear
Residential, Low density			50’*	50’*	50’*
Thoroughfare Business, Industrial			30’*	15’*	25’*

* 100’ setback for SES equipment, excluding any

security fencing, to any residential dwelling unit. If the SES is on a working farm where the primary residential structure of the farm is on an adjacent lot then this 100' setback will not apply to this primary residential structure.

** Ground-mounted SES must comply with district front yard limitations and setbacks, or otherwise not impair sight distance for safe access to or from the property or other properties in the vicinity

*** Level 1 SESs are not subject to screening requirements typically applied to accessory utility systems (HVAC, dumpsters, etc.).

SECTION 15-151. – HEIGHT LIMITATIONS.

The height of systems will be measured from the highest natural grade below each solar panel as shown below in **Table 3.**

Table 3: Height Limitations*

Zoning Districts	Level 1 ¹	Level 2	Level 3
Residential	Roof-mounted: Per zoning district Ground-mounted: 20'	20'	20'
Business districts		20'	20'
Industrial		20'	20'

* This excludes utility poles and any antennas constructed for the project.

SECTION 15-152. – AVIATION NOTIFICATION.

The requirements below apply only to Level 1, 2, & 3 systems over half (½) an acre in size:

- (a) A map analysis showing a radius of five (5) nautical miles from the center of the SES with any airport operations within this area highlighted shall be submitted with permit application.
- (b) For consideration of potential impacts to low altitude military flight paths, notification of intent to construct the SES shall be sent to the NC Commanders Council at least 30 days before the CUP/SUP hearing for Level 3 SESs and at least 45 days before starting construction for applicable Level 1 & Level 2 SESs. Notification shall include location of SES (i.e. map, coordinates, address, or parcel ID), technology (i.e. roof-mounted PV, ground-mounted fixed PV, tracked PV, solar thermal, etc.), and the area of system (e.g. 5 acres). Proof of delivery of notification and date of delivery shall be submitted with permit application.

- (c) The latest version of the Solar Glare Hazard Analysis Tool (SGHAT) shall be used per its user's manual to evaluate the solar glare aviation hazard. The full report for each flight path and observation point, as well as the contact information for the Zoning Enforcement Officer, shall be sent to the authority indicated below at least 30 days before the CUP/SUP hearing for Level 3 SESs and at least 45 days before starting construction for Level 1 & Level 2 SESs. Proof of delivery of notification and date of delivery shall be submitted with permit application.
- ii. Airport operations at airport in the National Plan of Integrated Airport Systems (NPIAS) within 5 nautical miles of the center of SES: provide required information to the Federal Aviation Administration's (FAA) Airport District Office (ADO) with oversight of North Carolina.
 - iii. Airport operations at airport *not* in the NPIAS, including military airports, within 5 nautical miles of the center of SES: provide required information to the NC Commanders Council for military airports and to the management of the airport for non-military airports.

Any applicable SES design changes (e.g. module tilt, module reflectivity, etc.) after initial submittal shall be rerun in the SGHAT tool and the new full report shall be sent without undue delay to the contact specified in 7.b.i and 7.b.ii above for accurate records of the as-built system.

SECTION 15-153. – LEVEL 1 SOLAR ENERGY SYSTEM REQUIREMENTS.

Level 1 SESs are a permitted use provided they meet the applicable height, setback, aviation notification, and related district standards.

SECTION 15-154. – LEVELS 2 AND 3 SOLAR ENERGY SYSTEM REQUIREMENTS.

These requirements are in addition to height, setback, aviation notification, and applicable district standards.

(a) Site Plan:

1. A site plan shall be submitted to the Zoning Enforcement Officer demonstrating compliance with:
2. Setback and height limitations established in Tables 2 and 3,
3. Applicable zoning district requirements such as lot coverage,
4. Applicable solar requirements per this ordinance.
5. Applicants may choose to provide a sketch plan to the Zoning Enforcement Officer ahead of a site plan, as sketch plans do not require much investment and are an opportunity for the Zoning Enforcement Officer to point out design changes ahead of more expensive site planning.

(b) Visibility:

1. SESs shall be constructed with buffering as required by the applicable zoning district.
2. Public signage (i.e. advertising, educational, etc.) as permitted by local signage ordinance, including appropriate or required security and safety signage.
3. If lighting is provided at site, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel or the night sky. Motion sensor control is preferred.

(c) Decommissioning

1. A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted with permit application.

- i. Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, etc.)
- ii. Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations
- iii. Restoration of property to condition prior to development of the SES.
- iv. The timeframe for completion of decommissioning activities.
- v. Description of any agreement (eg. lease) with landowner regarding decommissioning.
- vi. The party currently responsible for decommissioning.
- vii. Plans for updating this decommissioning plan.
- viii. Before final electrical inspection, provide evidence that the decommissioning plan was recorded with the Register of Deeds.

SECTION 15.155. - SOLAR ENERGY FACILITY A CONDITIONAL USE

Solar energy facilities are a conditional use in the R-A and R-20 districts only.

SECTIONS 15-156. – 15-165. - RESERVED.

ARTICLE 13. - PLANNING COMMISSION

SECTION 15-166. - ESTABLISHMENT OF THE PLANNING COMMISSION.

There is hereby created a Planning Commission consisting of **five (5) members**. **Three (3) members** shall be residents of the Town of Wagram and appointed by the Town Board of Commissioners. **Two (2) members** shall be residents within the extraterritorial jurisdiction and shall be appointed by the Scotland County Town Board of Commissioners. The five members of the Planning Commission shall have initial terms of office as follows: one member appointed for a term of one year; two members appointed for a term of two years; and two members appointed for terms of three years. At the completion of the initial terms of office for each member, additional appointments to vacancies on the Planning Commission shall be for three (3) year terms. Members may be appointed to successive terms without limitation.

Planning Commission members may be removed by the Town Board of Commissioners at any time for failure to attend three (3) consecutive meeting or for failure to attend thirty percent (30%) or more of the meetings within any twelve month period or for any other good cause related to the performance of duties. Upon request of the member proposed for removal, the Town Board of Commissioners shall hold a hearing on the removal before it becomes effective.

The representatives from the extraterritorial zoning jurisdiction shall have equal rights and privileges with the representatives from within the corporate limits of the Town of Wagram and shall have the same duties and responsibilities, regardless of whether the matters at issue arise within the corporate limits or within the extraterritorial zoning jurisdiction.

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SECTION 15-167. - PROCEDURES OF THE PLANNING COMMISSION.

Officers: The Planning Commission shall elect a Chairman and Vice-Chairman from its membership and such officers as the Planning Commission deems best. These officers shall serve for one (1) year or until re-elected or until their successors are elected.

Meetings: Meetings of the Planning Commission shall be held at the call of the Chairman and at such other times as the majority of the Commission may determine. All meetings of the Commission shall be open to the public. The Commission shall keep minutes of its procedures, showing the vote of each member upon each question, or, if absent or failing to vote, an indication of such facts; and final recommendation or cases shall be recorded indicating the reason for the decision taken, all of which shall be recorded in the public record. No final action shall be taken on any matter without the presence of a **quorum of five (5)** Commission members and the concurring vote of a majority of members present.

Records: The Planning Commissions shall keep a file containing minutes of the meetings, requests for zoning changes and amendments and applications for conditional use permits, along with accompanying documents such as plats or maps, and copies of correspondence, and copies of legal notices of public hearings. Such file shall be stored at the Wagram Town Hall.

SECTION 15-168. - POWERS AND DUTIES OF THE PLANNING COMMISSION.

Administrative Review: As an Advisory Board to the Town Board of Commissioners, the Planning Commission will review all requests for rezoning of property, for any changes or amendments to the text of the Zoning Ordinance, and all applications for conditional use permits. The Planning Commission shall also be authorized to review all planning oriented cases including, but not limited to, studies, plans, and ordinances whether they relate solely to the Town or to the extraterritorial zoning area. The Planning Commission shall make recommendation on each case under review and submit such recommendation along with the reasons therefore, to the Town Board of Commissioners. Such recommendations may be for approval, conditional approval, or disapproval. The Planning Commission shall also have the authority to initiate planning studies or similar such activities.

Conditional Uses: The Planning Commission shall review and make recommendations to the Town Board of Commissioners on each application for a conditional use permit as discussed in the Conditional Use section of this ordinance.

SECTION 15-169. – 5-175. - RESERVED.**ARTICLE 14. - BOARD OF ADJUSTMENT****SECTION 15-176. - CREATION OF BOARD OF ADJUSTMENT/POWERS AND DUTIES**

The Board of Adjustment for the Town of Wagram shall hear and decide the following:

- (a) Requests for variances (as provided in **Section 15-184**) and appeals of decisions of administrative officials charged with enforcement of this Ordinance (as provided in **Section 15-185**.) As used in this subsection,

the term “decision” includes any final and binding order, requirement, or determination. The Board of Adjustment shall follow quasi-judicial procedures when deciding appeals and requests for variances. The Board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use and development.

- (b) Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines (as provided in **Section 15-186.**)
- (c) Any other matter the Board is required to act upon by any other town ordinance.
- (d) The Board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this Article.

State Law Reference – NC Gen Stat. §160A-388(a).

SECTION 15-177. - MEMBERSHIP

- (a) The Board of Adjustment consisting of five (5) regular members and three (3) alternates. Three (3) regular members and two (2) alternates, appointed by the Town Council, shall reside within the Town. Two (2) regular members and one (1) alternate, appointed by the Scotland County Town Board of Commissioners shall reside within the Town's extraterritorial planning area. If the Scotland County Town Board of Commissioners fails to make these appointments within ninety (90) days after receiving a resolution from the Council requesting that they be made, the Council may make them.
- (b) Board of Adjustment regular members and alternates shall be appointed for three-year staggered terms, but both regular members and alternates may continue to serve until their successors have been appointed. Vacancies may be filled for the unexpired terms only.
- (c) Members may be reappointed to successive terms without limitation.
- (d) Regular Board of Adjustment members may be removed by the Council at any time for failure to attend three (3) consecutive meetings or for failure to attend thirty percent (30%) or more of the meetings within any twelve-month period or for any other good cause related to performance of duties. Alternate members may be removed for repeated failure to attend or participate in meetings when requested to do so in accordance with regularly established procedures. Upon request of the member proposed for removal, the Town Council shall hold a hearing on the removal before it becomes effective.
- (e) If a regular or alternate in-town member moves outside the town, or if an extraterritorial area regular or alternate member moves outside the planning jurisdiction that shall constitute a resignation from the Board, effective upon the date a replacement is appointed.
- (f) Extraterritorial planning area members may vote on all matters coming before the board.
- (g) The in-town alternate may sit only in lieu of a regular in-town member and the extraterritorial area alternate may sit only in lieu of the regular extraterritorial area member. When so seated, alternates shall have the same powers and duties as the regular member they replace.
- (h) The Board of Adjustment shall keep minutes of its procedures, showing the vote of each member upon each question, or, if absent or failing to vote, an indication of such fact; and final disposition of appeals shall be taken, all of which shall be of public record.
- (i) Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Board of Adjustment.

State Law Reference – NC Gen Stat. §160A-388(a).

SECTION 15-178. - MEETINGS OF THE BOARD OF ADJUSTMENT.

- (a) The Board of Adjustment shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with **Section 15-189**. (Requests to be Heard Expeditiously).
- (b) The Board shall conduct its meetings in accordance with the quasi-judicial procedures set forth in **Section 15-183**. through **Section 15-186**.
- (c) All meetings of the Board shall be open to the public and whenever feasible the agenda for each board meeting shall be made available in advance of the meeting.

SECTION 15-179. - QUORUM.

- (a) A quorum for the Board of Adjustment shall consist of the number of members equal to four-fifths of the regular Board membership (excluding vacant seats). A quorum is necessary for the board to take official action.
- (b) A member who has withdrawn from the meeting without being excused as provided in **Section 15-180(c)** shall be counted as present for purposes of determining whether a quorum is present.

SECTION 15-180. - VOTING.

- (a) The concurring vote of four-fifths of the Board membership (excluding vacant seats) shall be necessary to grant a variance. A simple majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari (see **Section 15-182**).
- (b) Once a member is physically present at a Board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with **Section 15-180(c)** below or has been allowed to withdraw from the meeting in accordance with **Section 15-180(d)**.
- (c) A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:
 - i. If the member has a direct financial interest in the outcome of the matter at issue; or
 - ii. If the matter at issue involves the member's own official conduct; or
 - iii. If participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or
 - iv. If a member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.
- (d) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.
- (e) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.
- (f) A roll call vote shall be taken upon the request of any member.

State Law Reference – NC Gen Stat. §160A-75.

SECTION 15-181. - BOARD OF ADJUSTMENT OFFICERS.

- (a) At its first regular meeting in January, the Board of Adjustment shall, by majority vote of its membership (excluding vacant seats), elect one (1) of its members to serve as Chairman and preside over the Board's meetings and one (1) member to serve as Vice-Chairman. The persons so designated shall serve in these capacities for terms of two (2) years. Vacancies may be filled for the unexpired terms only by majority vote of the board membership (excluding vacant seats).
- (b) The Chairman or any member temporarily acting as Chairman may administer oaths to witnesses coming before the board.
- (c) The Chairman and Vice-Chairman of the Board of Adjustment may take part in all deliberations and may vote on all issues.
- (d) The Planning staff shall serve as secretary to the Board of Adjustment.

SECTION 15-182. - CONFLICTS ON QUASI-JUDICIAL MATTERS.

A member of the Board of Adjustment or any other body exercising the functions of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote, rule on the objection.

State Law Reference – NC Gen Stat. §160A-388(e1).

SECTION 15-183. - RULES OF PROCEDURE.

The Board of Adjustment shall adopt rules of procedure for the conduct of its affairs and in keeping with the provisions of this Ordinance. Such rules of procedure shall not be effective until approved by the Town Board of Commissioners. All meetings held by the Board of Adjustment shall be held in accordance with NCGS Chapter 143A, Article 33 B, or as may be amended. The Board shall keep minutes of its proceedings suitable for review in Court showing:

- (a) The factual evidence presented to the Board of Adjustment by all parties concerned.
- (b) The findings of fact and the reasons for the determinations by the Board of Adjustment.
- (c) The vote of each member, or if absent or failing to vote, indicating such fact, all of which shall be public record and be filed with the office of the Town Clerk.

SECTION 15-184. - VARIANCES.

- (a) An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the Code Administrator. Applications shall be handled in the same manner as applications for permits.
- (b) When unnecessary hardships would result from carrying out the strict letter of the Ordinance, the Board of Adjustment shall vary any of the provisions of the Ordinance upon a showing of all of the following:
 - i. Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - ii. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
 - iii. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
 - iv. The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured and substantial justice is achieved.
- (c) No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.
- (d) The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this Ordinance.

State Law Reference – NC Gen Stat. §160A-388(d).

SECTION 15-185. - APPEALS.

- (a) Any person who has standing under GS 160A-393(d) or the town may appeal a decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the Town Clerk. The notice of appeal shall state the grounds for the appeal. A notice of appeal shall be considered filed with the Town Clerk when delivered to the Town Hall and the date and time of filing shall be entered on the notice by the town staff.
- (b) The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.
- (c) The owner or other party shall have thirty (30) days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have thirty (30) days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.
- (d) It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words “Zoning Decision” or “Subdivision Decision” in letters at least six inches high and identifying the means to contact an

official for information about the decision is prominently posted on the property for at least ten (10) days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.

- (e) The official who made the decision shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
- (f) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause immediate peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the Ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within fifteen (15) days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting permit or otherwise affirming that a proposed use of property is consistent with the Ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations, the appellant may request and the Board of Adjustment may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.
- (g) Subject to the provisions of **Section 15-185(f)**, the Board of Adjustment shall hear and decide the appeal within a reasonable time.
- (h) The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board of Adjustment shall continue the hearing. The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The Board of Adjustment shall have all the powers of the official who made the decision.
- (i) When hearing an appeal pursuant to GS 160A-400.9(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in GS 160A-393(k).
- (j) The parties of an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution. The Ordinance may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

State Law Reference – NC Gen Stat. §160A-388(b1).

SECTION 15-186. - INTERPRETATIONS.

- (a) The Board of Adjustment is authorized to interpret the zoning map and to act upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the Code Administrator, they shall be handled as provided in **Section 15-185**.
- (b) An application for a map interpretation shall be submitted to the Board of Adjustment by filing an appeal form with Code Administrator. The application shall contain sufficient information to enable the Board of Adjustment to make the necessary interpretation.
- (c) Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the rules of interpretation shall be applied. Where uncertainties continue to exist after application of the above rules, appeal may be taken to the Board of Adjustment as provided in **Section 15-185** of this Ordinance.
- (d) Interpretations of the location of floodway and floodplain boundary lines may be made by the Code Administrator.

SECTION 15-187. - TIMING FOR HEARING OF REQUESTS.

The Planning Board, Town Council, and Board of Adjustment (as applicable) shall hear and decide all applications, appeals, variance requests, and requests for interpretations, including map boundaries, as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with **Section 15-185** and obtain the necessary information to make sound decisions.

SECTION 15-188. - HEARING REQUIRED FOR ALL ACTION OF THE BOARD.

- (a) Before making a decision on an appeal or an application for a variance or interpretation, the Board of Adjustment shall hold a hearing on the appeal or application within thirty (30) days of the submittal of a completed appeal or application.
- (b) Subject to **Section 15-178(c)**, the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments. All persons presenting evidence or arguments shall be sworn in prior to the presentation of any evidence or arguments. The oath may be administered by the Chairperson, any member acting as Chairperson, or the Clerk to the Board.
- (c) The Board of Adjustment may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.
- (d) The Board of Adjustment may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six weeks or more elapses between hearing dates.
- (e) The required application fee and all supporting materials must be received by the Code Administrator before an application is considered complete and a hearing scheduled.

SECTION 15-189. - NOTICE REQUIREMENT FOR HEARING.

- (a) Notice of Hearing. The Code Administrator shall give notice of any hearing required by **Section 15-185** as follows:
- i. Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by this Ordinance. In the absence of evidence to the contrary, the town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least ten (10) days, but not more than twenty-five (25) days, prior to the date of the hearing. Within that same time period, the town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.
 - ii. In the case of conditional use permits, notice shall be given to other potentially interested persons by publishing a notice in a newspaper having general circulation in the area one (1) time not less than ten (10) nor more than twenty-five (25) days prior to the hearing.
 - iii. The notice required by this section shall state the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

State Law Reference – NC Gen Stat. §160A-388(a2).

SECTION 15-190. - BURDEN OF PROOF IN DECISIONS.

- (a) When an appeal is taken to the Board of Adjustment in accordance with **Section 15-185**, the Code Administrator shall have the initial burden of presenting to the Board of Adjustment sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.
- (b) The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth in **Section 15-184(b)**, as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

SECTION 15-191. - NUMBERS REQUIRED FOR VOTING.

The concurring vote of four-fifths of the Board of Adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority.

SECTION 15-192. - EVIDENCE PRESENTED.

- (a) The provisions of this section apply to all hearings for which a notice is required by **Section 15-188**.
- (b) All persons who intend to present evidence to the Board of Adjustment shall be sworn in by the Chairperson. The Chairperson of the Board or any member acting as Chairperson and the Clerk to

the Board are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor.

- (c) All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (necessary findings) shall be based upon competent, material, and substantial evidence.
- (d) The entirety of a quasi-judicial hearing and deliberation shall be conducted in open session.
- (e) Parties to a quasi-judicial hearing have a right to cross-examine witnesses.
- (f) Factual findings must not be based on hearsay evidence which would be inadmissible in a court of law.
- (g) If a Board of Adjustment member has prior or specialized knowledge about a case, that knowledge should be disclosed to the rest of the Board of Adjustment and parties at the beginning of the hearing.
- (h) The Board of Adjustment through the Chairperson, or in the Chairperson's absence, anyone acting as the Chairperson may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under GS 160A-393(d) may make a written request to the Chairperson explaining why it is necessary for certain witnesses or evidence to be compelled. The Chairperson shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The Chairperson shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the Chairperson may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all property parties.

SECTION 15-193. - MODIFYING THE APPLICATION DURING THE HEARING.

- (a) In response to questions or comments made in sworn testimony at the hearing, the applicant may agree to modify his application, including the plans and specifications submitted.
- (b) Unless such modifications are so substantial or extensive that the Board of Adjustment cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Board of Adjustment may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the Code Administrator.

SECTION 15-194. - KEEPING OF THE RECORD.

- (a) A record shall be made of all hearings required by **Section 10-180** and such recordings shall be kept as provided by state law, but a transcript need not be made. Minutes shall also be kept of all such proceedings, but a transcript need not be made.
- (b) Whenever practicable, all documentary evidence, including any exhibits, presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the town in accordance with the NC Department of Cultural Resources requirements (NCGS 132-8).

SECTION 15-195. - DECISIONS OF THE BOARD ARE QUASI-JUDICIAL.

The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial

decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the Chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision within the Clerk to the Board or such other office or official as this Ordinance specifies. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

SECTION 15-196. - APPEALS OF DECISION FROM THE BOARD OF ADJUSTMENT.

Appeal from the decision of the Board of Adjustment may be taken to the Scotland County Superior Court within a period of thirty (30) days following decision.

SECTION 15-197 – 15-200. - RESERVED.

ARTICLE 15. - CHANGES AND AMENDMENTS

The Town Board of Commissioners may change the text regulations and zoning district lines according to the following procedures:

SECTION 15-201. - ACTION BY THE APPLICANT

The following actions shall be taken by the applicant:

A. Initiation of Amendments:

Proposed changes or amendments may be initiated by the Town Board of Commissioners, Planning Board, Board of Adjustment, or by the owner(s), or their agent, of property within the area proposed to be changed.

B. Application:

Application for any change or amendment shall be filed with the Administrative Official at least twenty-five (25) days prior to the Planning Board meeting at which the application is to be considered. The application shall contain a description of the proposed amendment and the names and addresses of property owners directly affected by the proposed change.

C. Fee

The Town Board of Commissioners shall set a fee payable to the Town of Wagram, North Carolina, to cover the necessary administrative costs and advertising of each application for a change or amendment. The set fee shall be posted in the Town Clerk's Office.

D. Notice of Public Hearing Letters

All mail notification regarding zoning amendments shall comply with G.S. 160-A-384 as amended. When mail notification is required, the following procedure will be followed. When a change in the zoning classification of a piece of property is requested, the applicant shall provide to the Zoning Enforcement Officer a list of names and addresses, as obtained from the county tax listings and tax abstracts of all adjacent property owners, and all owners of property within the area under consideration for rezoning along with one set of business (No. 10) envelopes stamped with a first-class stamp and addressed to each person on the list. These addressed envelopes and the list shall be submitted at least eight (8) working days prior to the public hearing.

The Zoning Enforcement Officer shall then mail notices of the public hearing to each person on the list and shall certify that fact to the Town Board of Commissioners. Such certification shall be deemed conclusive in the absence of fraud.

SECTION 15-202 - ACTION BY THE BOARD

The Planning Board shall consider and make recommendations to the Town Board of Commissioners concerning each proposed zoning amendment. The following policy guidelines shall be followed by the Planning Board

concerning zoning amendments and no proposed zoning amendment will receive favorable recommendation unless:

- A. The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories.
- B. There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group.
- C. There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. (When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not merely uses which applicants state they intend to make of the property involved.)
- D. There is convincing demonstration that the character of the neighborhood will not be materially and adversely affected by any use permitted in the proposed change.
- E. The proposed change is in accord with a comprehensive plan and sound planning principles.

SECTION 15-203. - ACTION BY TOWN BOARD OF COMMISSIONERS

A. Notice and Public Hearing

No amendment shall be adopted by the Town Board of Commissioners until after public notice and hearing. The Town Board of Commissioners shall hold the public hearing. Notice of a public hearing shall be given once a week for two successive calendar weeks in a newspaper of general circulation in the Town of Wagram, said notice to be published the first time not less than ten (10) nor more than twenty-five (25) days prior to the date fixed for said hearing. In addition to the newspaper notice, notice shall also be made by posting the property concerned with a poster indicating the proposed change and date of hearing when the application is for a change to a district boundary.

B. Town Board of Commissioners

Before taking such lawful action as it may deem advisable, the Town Board of Commissioners shall consider the Planning Board's recommendation on each proposed zoning amendment. If no recommendation is received from the Planning Board within thirty (30) days after public hearing by the Town Board of Commissioners, the proposed amendment shall be deemed to have been approved by the Planning Board.

C. Protests

In case, however, of a protest against such change signed by the owners of twenty percent or more (either of the area of the lots included in such proposed change or of those immediately adjacent thereto, extending one hundred feet therefrom of those directly opposite thereto

extending one hundred (100) feet from the street frontage of such opposite lots), such amendment shall not become effective except by favorable vote of three-fourths of all members of the Town Board of Commissioners.

No protest petition shall be valid unless it is:

- (1) Written;
- (2) Bears the actual signatures of the requisite number of property owners and states that they protest the proposed amendment; and
- (3) Is received by the Town Clerk in time to allow at least two (2) normal working days (excluding weekends and legal holidays) prior to the public hearing on the amendment, so as to allow time for municipal personnel to check the accuracy and sufficiency of the petition.

D. Reconsideration; One-Year Limitation

Whenever an application requesting an amendment has been acted on and denied by the Planning Board and the Town Board of Commissioners, such application, or one substantially similar, shall not be reconsidered sooner than one year after the previous denial.

SECTION 15-204. – 15-210. – RESERVED.

ARTICLE 16. - WATERSHED PROTECTION OVERLAY DISTRICT

AMENDMENT TO TOWN OF WAGRAM ZONING ORDINANCE WATERSHED PROTECTION OVERLAY DISTRICT

The purpose of this section is to describe the watershed areas and regulations herein adopted. The town of Wagram has within its jurisdiction, a portion of the protected area of the Lumber River Watershed, classified a WS-IV by the Environmental Management Commission. The Governing Board has chosen the Low Density option for development within the watershed areas. These areas are displayed on the Town of Wagram Official Zoning Map, and the following regulations apply to these areas in addition to regulations stated in the Town of Wagram Official Zoning Ordinance.

1. Purpose. G.S. 143-214.5 provides for a cooperative program of water supply watershed management and protection to be administered by local governments consistent with minimum statewide management requirements established by the Environmental Management Commission. In order to promote the public health, safety and welfare, the governing board of the town of Wagram adopts these Watershed Protection regulations effective for all areas designated Watershed Protection Overlay District on the official Zoning Map.

2. Effective Date. This Overlay District and its provisions governing the use of land and buildings in designated watershed areas, are hereby established and declared to be in full force and effect from and after its passage.

Approved and adopted by the Board of Commissioners this the ^{14th} day of ~~Nov~~ Nov, 1993.

Milton B. Farmer
Mayor

ATTEST:

APPROVED AS TO FORM:

Robert [unclear]
Town Clerk

[Signature]
Town Attorney

3. Watershed Protection Permit Required. If, at the time of application for a zoning permit, it is determined that the property lies in a water supply watershed, as shown on the Zoning Map, a Watershed Protection Permit will be required. Requirements outlined in Article 10 of the town of Wagram Zoning Ordinance will be followed when application for a Watershed Protection Permit is made.

4. Issuance of Watershed Protection Permit. If the proposed activity as set forth in the application is in conformance with the provisions of this ordinance, the Zoning Administrator shall issue a Watershed Protection Permit. If any application for a Watershed Protection Permit is not approved, the Zoning Administrator shall state in writing on the application, the cause for such

disapproval. Issuance of a permit shall, in no case, be construed as waiving any provision of this or any other ordinance or regulation.

5. Exceptions to Applicability and Pre-Existing Lots

A. "If a non-conforming lot of record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of this ordinance if it is developed for single family purposes.

B. Any existing development as defined in this ordinance, may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this ordinance, however, the built-upon area of the existing development is not required to be included in the density calculations.

C. Vacant Lots. This Category consists of vacant lots for which plats or deeds have been recorded in the office of the Register of Deeds of Scotland County. Lots may be used for any of the uses allowed in the watershed area in which it is located, provided the following:

1. Where the lot area is greater than the minimum specified in this ordinance the Zoning Administrator is authorized to issue a watershed protection permit.

2. Notwithstanding the foregoing, whenever two or more contiguous residential vacant lots of record are in single ownership at any time after the adoption of this ordinance and such lots individually have less area than the minimum requirements for residential purposes for the watershed area in which such lots are located, such lots shall be combined to create one or more lots that meet the standards of this ordinance, or if this is impossible, reduce to the extent possible the nonconformity of the lots.

D. Occupied Lots. This category consists of lots, occupied for residential purposes at the time of the adoption of this ordinance. These lots may continue to be used provided that whenever two or more adjoining lots of record, one of which is occupied, are in single ownership at any time after the adoption of this ordinance, and such lots individually or together have less area than the watershed area in which they are located, such lots shall be combined to create lots which meet the minimum size requirements or which minimize the degree of nonconformity.

E. Reconstruction of Built-upon Areas. Any reconstruction of built-upon areas per Article VII, Section 7.4, Wagram Zoning Ordinance, shall not increase the total amount of space devoted to built-upon area unless stormwater control that equals or exceeds the previous development is provided. Reconstruction of single family residential development is exempt from this regulation.

6. Watershed Overlay District Regulations.

A. Only new development activities that require a sedimentation/erosion control plan under State Code (NCAC, Chapter 4) or local government program are required to meet the provisions of this ordinance when located in a WS-IV watershed. These include land disturbing activities of one acre or more. Sludge application is allowed; new non-discharging landfills are allowed. Best management practices for forestry and

transportation (reference NCDOT publication Best Management Practices for the Protection of Surface Waters) are required.

B. In addition to Permitted and Conditional Uses listed for the appropriate district in the Town of Wagram Zoning Ordinance, the following are allowed uses in the Watershed Protection District.

1. ALLOWED USES:

a. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.

b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).

2. NOT ALLOWED

a. Discharging landfills.

b. The storage of toxic and hazardous materials (unless a spill containment plan is implemented.)

3. Dimensional Requirements

(See Dimensional Requirements for appropriate district, Article IV, Wagram Zoning Ordinance.)

Single Family Residential

For activities disturbing one acre or more of land, minimum lot size is 20,000 square feet, or 24% built-upon. (1/3 acre lots or 36% built-upon area is allowed for projects without a curb and gutter street system.)

All other Residential and Non-Residential

For activities disturbing one acre or more of land, built-upon area is limited to 24%. (1/3 acre lots or 36% built-upon are allowed for projects without a curb and gutter street system.)

7. Cluster Development.

Clustering of development is allowed under the following conditions:

A. Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments in Section 6. Built-upon area for the project shall not exceed that allowed for the watershed.

B. All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.

C. The remainder of the tract shall remain in a vegetated or natural state, not to be developed at any future date. The title of to the open space area shall be conveyed to an incorporated homeowners association for management and maintenance; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement."

8. Buffers Required

A. A minimum of thirty (30) foot vegetative buffer is required for development activities along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial stream bank or shoreline stabilization is permitted.

B. No new development is allowed in the buffer except water dependent structures and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices.

9. Public Health Regulations

A. Public Health, in general. No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of storm water runoff; or any other situation found to pose a threat to water quality.

B. Abatement. The Zoning Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.

C. The Zoning Administrator shall report all findings to the Planning Board. The Zoning Administrator may consult with any public agency or official and request recommendations.

D. Where the Planning Board finds a threat to water quality and the public health, safety and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct or abate the condition and /or violation.

10. Additional Regulations.

A. The Zoning Administrator of the town of Wagram shall serve as Watershed administrator and shall issue Watershed Protection Permits as prescribed herein. A record of all permits shall be kept on file for public inspection.

B. The Town Clerk shall serve as clerk to the Watershed Review Board (described below).

C. The Board of Adjustment for the Town of Wagram (Article XII, Wagram) shall serve as Watershed Review Board, and shall delegate administrative review procedures to the Town of Wagram Planning Board. The Board of Adjustment shall retain the responsibility to grant variances from these regulations.

Variances. In granting a variance for property located in an area designated water supply watershed, in addition to the standard procedures prescribed in Article XII, Section 12.3 of the town of Wagram Zoning Ordinance, the Board of Adjustment will distinguish between a Major variance and a Minor variance in the following manner:

A Major variance is one that (a) completely waives a management requirement, or (b) relaxes, by a factor of more than ten (10) percent, any management requirement that takes the form of a numerical standard.

A minor variance is one that does not qualify as a major variance.

With an application for a major variance, the Watershed Review Board shall provide a recommendation to the N.C. Environmental Management Commission (NCEMC). The EMC shall have the authority to approve or deny the issuance of a major variance. If the NCEMC approves the variance, the Watershed Review Board may direct the Watershed Administrator to issue a Watershed Protection Permit.

A description of all projects receiving a variance to the water supply watershed protection ordinance during the previous calendar year and the reason(s) for granting the variances shall be submitted to the North Carolina Division of Water Quality on January 1st of each year.

When considering variances in the watershed area, the town of Wagram will notify and allow a reasonable comment period, to all local governments having jurisdiction within the watershed, and the entity using the water supply for consumption.

D. Amendments. Amendments to this Overlay District shall follow procedures outlined in Article VIII. Wagram Zoning Ordinance. In addition, the North Carolina Division of Water Quality will be notified of any amendments to this Watershed Overlay District that represent major changes in land use regulations.

11. Definitions

Cluster Development. The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land.

Best Management Practices. A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

"Built-upon area." "Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g. roads, parking lots, paths) recreation facilities (e.g. tennis courts) etc..."

Discharging Landfill. A Facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

Existing Development. Those projects that are built, or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this ordinance based on criteria established under Article XIII, Vested Rights for the Town of Wagram.

Hazardous Material. Any substance listed as such in: SARA section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

Landfill. A Facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the N.C. General Statutes. For the purpose of this ordinance this term does not include composting facilities.

Land Disturbing Activity. Any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Regulations do not apply to the following land-disturbing activities:

- a. agriculture
- b. forestry
- c. mining

Major Variance. A variance that results in (a) the complete waiver of a management requirement, or (b) relaxes, by a factor of more than ten (10) percent, any management requirement that takes the form of a numerical standard.

Minor Variance. A Variance that does not qualify as a major variance.

Protected Area. The area adjoining and upstream of the critical area in a WS-IV water supply in which protection measures are required. The boundaries of the protected areas are defined as extending 5 miles upstream and draining to water supply reservoirs (measured from the normal pool elevation) or to the ridge line of the watershed used to delineate the outer boundary of the protected area if these landmarks are immediately adjacent to the appropriate outer boundary of 5 or 10 miles.

Site Specific Development Plan. A plan of land development submitted to the town board for purposes of obtaining approval of a subdivision plat, or a conditional use permit. In addition to procedures established for subdivision plats and conditional use permits in the Town of Wagram Zoning Ordinance, the Plan shall describe the type of use and intensity of use planned for the specific parcel or parcels of property.

Toxic Substance. Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their off spring or other adverse health effects.

Vested Right. The right to undertake and complete the development and use of property under the terms and conditions established by the local government.

Water Dependent Structure. Any Structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

Watershed. The entire land area contributing surface drainage to a specific point (e.g. the water supply intake.)

AMENDMENT TO TOWN OF WAGRAM ZONING ORDINANCE

Vested Rights. The purpose of this section is to implement provisions of G.S. 160A-385.1 which establishes a statutory zoning-vested right upon the approval of a site specific development plan.

A. Definition. Site Specific Development Plan for the purposes of this ordinance will be considered to be a plan of land development submitted to the town board for purposes of obtaining approval of a conditional use permit (Article VI). In addition to procedures already established in the Town of Wagram Zoning Ordinance (conditional use permits), the Plan shall describe the type of use and intensity of use planned for the specific parcel or parcels of property.

For proposed developments that do not require a conditional use permit, the landowner may seek to establish a vested right by following procedures for application for a conditional use permit.

B. Procedure.

1. At the time that the landowner submits application for a subdivision plat, or conditional use permit, the landowner must declare he is seeking to acquire a vested right pursuant to G.S. 160A-385.1 and the Town of Wagram Zoning Ordinance by completing the accompanying form.

2. A variance shall not constitute a site specific development plan, and approval, of a site specific development plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained. Neither a sketch plan nor any other document which fails to describe with reasonable certainty the type and intensity of use for a specified parcel of parcels or property may constitute a site specific development plan.

C. Establishment of Vested Right.

1. A vested right shall be deemed established upon the valid approval, or conditional approval of the above mentioned subdivision plat, or conditional use

permit. Such vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the subdivision plat, or conditional use permit.

2. A right which has been vested as provided for in this section shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications unless expressly provided by the town.

D. Termination of a Vested Right. A right which has been vested as provided in this section shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

E. Changes and Exceptions.

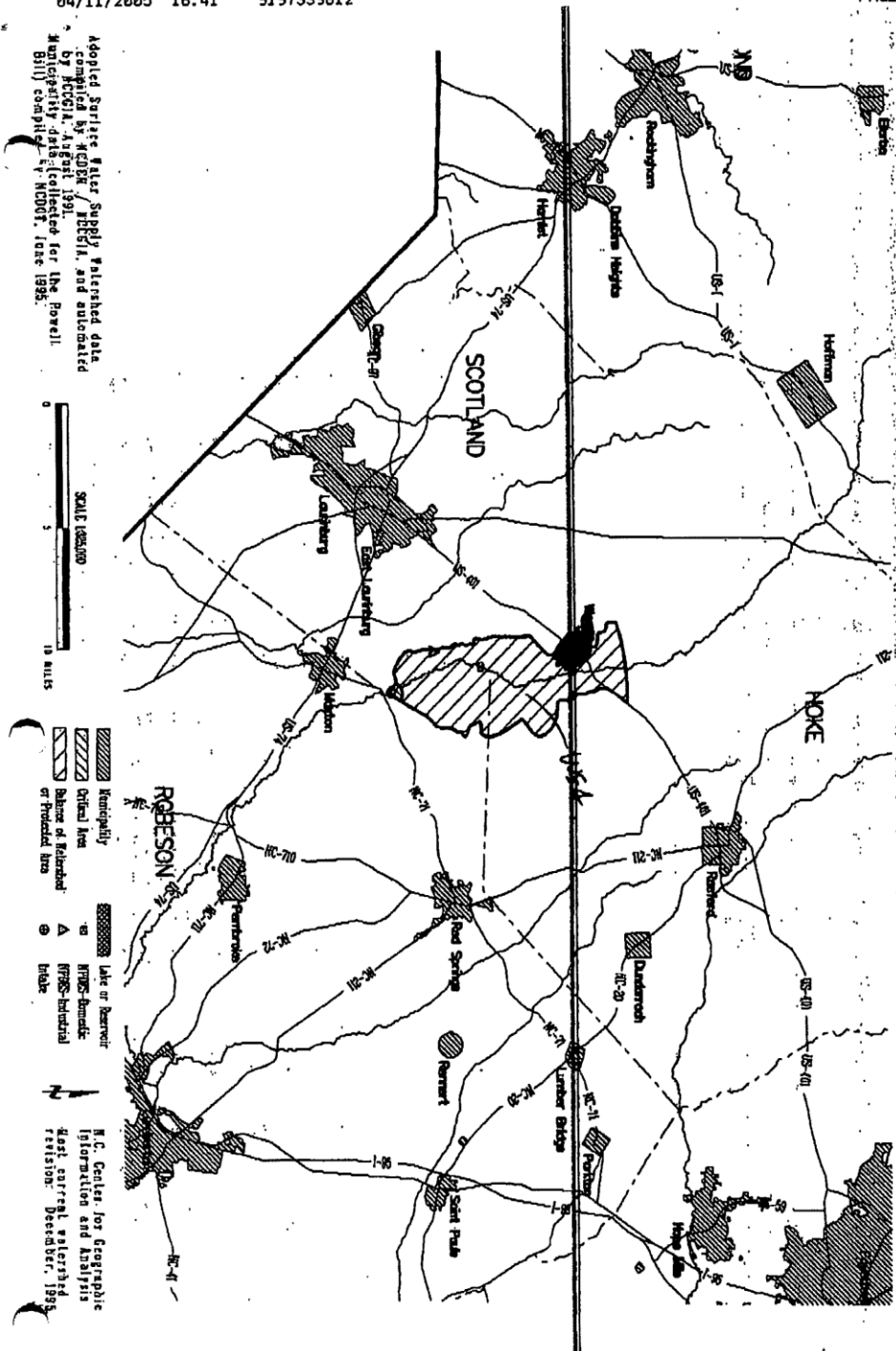
A vested right, once established as provided for in this section, precludes any zoning action by the town which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site specific development plan except:

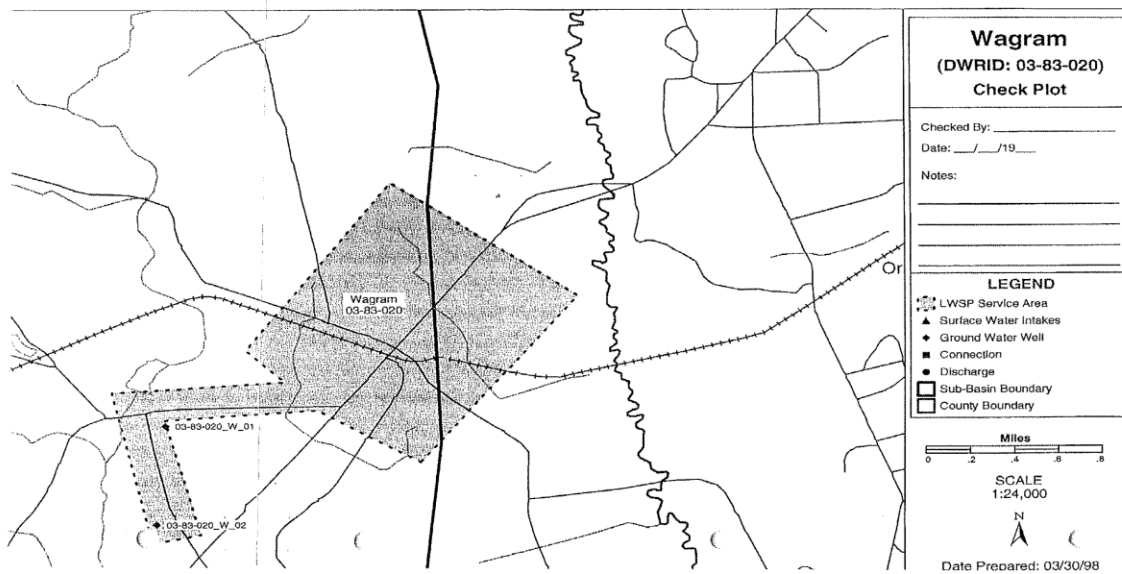
1. With written consent of the affected landowner.
2. Upon findings that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan.
3. To the extent that the affected landowner receives compensation for all costs and losses.
4. Upon findings that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the plan approval by the city.
5. Upon the enactment of a State or federal law or regulation which precludes development as contemplated in the site specific development plan.

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PAGE 02/02

Lumber River (Robeson Co.) Lumber
Adopted Amendment





ARTICLE 17. - FLOOD PREVENTION ORDINANCE

SECTION 15-191. – GENERAL.

The following ordinance shall be known as the Town of Wagram Flood Damage Prevention Ordinance.

SECTION 15-192. – STATUTORY AUTHORIZATION.

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5 and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Town Board of Commissioners of the Town of Wagram, North Carolina, does ordain and adopt this ordinance.

SECTION 15-193. –FINDINGS OF FACT.

- (1) The flood prone areas within the jurisdiction of the Town of Wagram are subject to periodic inundation which results in loss of life, property, health, and safety hazards disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

SECTION 15-194. – STATEMENT OF PURPOSE.

It is the purpose of this ordinance to promote public health, safety, and the general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- (1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (2) Require that uses vulnerable to floods, including such facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (5) prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

SECTION 15-195. – OBJECTIVES.

The objectives of this ordinance are to:

- (1) protect human life, safety, and health;
- (2) minimize expenditure of public money for costly flood control projects;

- (3) minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) minimize prolonged business losses and interruptions;
- (5) minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines streets, and bridges) that are located in flood prone areas;
- (6) help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (7) ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

SECTION 15-196. – DEFINITIONS.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

"Accessory Structure (Appurtenant Structure)" means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms; and may or may not be located on the same parcel as the farm dwelling or shop building.

"Addition (to an existing building)" means an extension or increase in the floor area or height of a building or structure.

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

"Area of Shallow Flooding" means a designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of Special Flood Hazard" see "Special Flood Hazard Area (SFHA)".

"Base Flood" means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation (BFE)" means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure".

"Chemical Storage Facility" means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings, materials, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or

"Development Activity" means any activity defined as Development which will necessitate a Floodplain Development Permit.

"Disposal" means as defined in NCOS 130A-290(a)(6) means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

"Elevated Building" means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

"Encroachment" means the advance or infringement of uses, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

"Existing Manufactured Home Park or Manufactured Home Subdivision" means a manufactured home park or subdivision or winch the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum. the installation of utilities, the construction of streets, and either final site grading or pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters; and/or
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Boundary and Floodway Map (FBFM)" means an official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

"Flood Insurance" means the insurance coverage provided under the National Flood Insurance Program.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Emergency Management Agency, on which both Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

"Flood Insurance Study (FIS)" means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

"Flood Prone Area" see "Floodplain"

"Flood Zone" means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

"Floodplain" means any land area susceptible to being inundated by water from any source.

"Floodplain Administrator" is the individual appointed to administer and enforce the floodplain management regulations.

"Floodplain Development Permit" means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

"Flood Plain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

"Floodplain Management Regulations" means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes Federal, State and Local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

"Flood proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

"Floodway encroachment analysis" means an engineering analysis of the impact a proposed encroachment into a floodway or a non-encroachment area is expected to have on the floodway boundaries, base flood elevations, and floodway surcharge elevations. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

"Freeboard" means the height added to the Base Flood Elevation to account for the unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation (BFE) plus the freeboard establishes the "Regulatory Flood Protection Elevation".

"Functionally Dependent Facility" means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

"Hazardous Waste Management Facility" means, as defined in NCOS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

"Highest Adjacent Grade (HAG)" means the highest natural elevation of the ground surface, prior to construction immediately next to the proposed walls of the structure.

"Historic Structure" means any structure that is:

- (a) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (b) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or
- (d) certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program".

A "Certified Local Government Program" is approved by the US Department of Interior with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

"Letter of Map Change (LOMC)" mean an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on FUI (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulation.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project complies with the NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study. Upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

"Lowest Adjacent Grade (LAG)" means the elevation off the ground, sidewalk or patio slab immediately next to the building or deck support, after completion of the building.

"Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure usable solely for parking of vehicles, building access, or limited storage in an area other than abasement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Market Value" means the budding value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

"Mean Sea Level" means, for purposes of this ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFBs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

"New Construction" means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

"Non-Encroachment Area" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

"Post-FIRM" means construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map.

"Pre-FIRM" means construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map.

"Principally Above Ground" means that at least 51% of the actual cash value of the structure is above ground.

"Public Safety and/or Nuisance" means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"Recreational Vehicle RV" means a vehicle, which is:

- (a) built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) designed to be self-propelled or permanently towable by a light duty truck; and

(d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use.

"Reference Level" is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone AE, A, A99 or AO.

"Regulatory Flood Protection Elevation" means the "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations have been determined, this elevation shall be the BFB plus two (2) feet above the highest adjacent grade.

"Remedy a Violation" means to bring the structure or other development into compliance with the State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of non-compliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Salvage Yard" means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

"Solid Waste Disposal Facility" means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

"Solid Waste Disposal Site" means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

"Special Flood Hazard Area (SFHA)" means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded many given year, as determined in Article 3, Section B of this ordinance.

"Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the start of construction, repair, reconstruction, rehab, addition placement, or other improvements was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways- nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not feat alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, a manufacture home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

"Substantial Damage" means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before damage occurred. See definition of "substantial improvement". Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year

period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage.

"Substantial Improvement" means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (a) any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to ensure safe living conditions; or
- (b) any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure and the alteration is approved by variance issued pursuant to Article 4 Section E of this ordinance.

"Variance" is a grant of relief from the requirements of this ordinance.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as documentation is provided.

"Water Surface Elevation (WSE)" means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

"Watercourse" means a lake, river, creek, stream, wash, channel or other topographic feature on or over which water flows at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

SECTION 15-197. – LAND TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs), of the Town of Wagram.

SECTION 15-198. – BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA dated July 7, 2014 for Scotland County and associated FIRM panels 8480M and 8482L, including any digital data developed as part of the Flood Insurance Study, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and FIRM panels that do not change flood hazard data within the jurisdictional authority of the Town of Wagram are also adopted by reference and declared a part of this ordinance. Subsequent revisions to the FIRM should be adopted within 12 months.

SECTION 15-199. – ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Article 3, Section B of this ordinance.

SECTION 15-200. – COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

SECTION 15-201. – ABROGATION AND GREATER RESTRICTIONS.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION 15-202. – INTERPRETATION.

In the interpretation and application of this ordinance, all provisions shall be:

- (a) considered as minimum requirements;
- (b) liberally construed in favor of the governing body; and
- (c) deemed neither to permit nor repeal any other powers granted under State statutes.

SECTION 15-203. – WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted in such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Wagram or by any other officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION 15-204. – PENALTIES FOR VIOLATION.

Violations of the provisions of this ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances and special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction hereof, be fined not more than \$50.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Wagram from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 15-205. – DESIGNATION OF FLOOD PLAIN ADMINISTRATOR.

The Mayor or designee, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance.

SECTION 15-206. – FLOODPLAIN APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

- (1) **Application Requirements.** Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:
- (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - (i) the nature, location, dimensions, and elevations of the area of development or disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - (ii) the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
 - (iii) flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;
 - (iv) the boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;
 - (v) the Base Flood Elevation (BFE) where provided as set forth in Article 3, Section B; Article 4, Section C; or Article 5, Section D;
 - (vi) the old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - (vii) the certification of the plot plan by a registered land surveyor or professional engineer.
 - (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - (i) elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
 - (ii) elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be flood proofed; and
 - (iii) elevation in relation to mean sea level to which any proposed utility systems will be elevated or flood proofed.

- (c) If flood proofing, a Flood-proofing Certificate (FEMA Form 086-0-34 (7/12)) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of flood proofing measures.
- (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
 - (i) the proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
 - (ii) openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Article 5, Section B(4)(c) when solid foundation perimeter walls are used in Zones A, AO, AE, and AI-
- (e) Usage details of any enclosed areas below the lowest floor.
- (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
- (g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
- (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable to ensure that the provisions of Article 5, Section B, subsections (6) and (7) of this ordinance are met.
- (i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(2) Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:

- (a) A description of the development to be permitted under the floodplain development permit.
- (b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Article 3, Section B.
- (c) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
- (d) The Regulatory Flood Protection Elevation required for the protection of all public utilities.
- (e) All certification submittal requirements with timelines.

- (f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
- (g) The flood openings requirements, if in Zones A, AO, AE or A1-30.
- (h) Limitations of below BFE enclosure uses (if applicable). (I.e., parking, building access and limited storage only).

(3) Certification Requirements.

(a) Elevation Certificates

(i) *An Elevation Certificate (FEMA Form 086-0-33 (7/12)) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop work order for the project.*

(ii) A final as-built Elevation Certificate (FEMA Form 086-0-33 (7/12)) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(b) Floodproofing Certificates:

If non-residential Floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34 (7/12)) with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall

be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of Certificate of Compliance/Occupancy.

- (c) If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Article 5, Section B(3)(b).
 - (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
 - (e) Certification exemptions. The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
 - (i) recreational vehicles meeting requirements of Article 5, Section B(6)(a);
 - (ii) temporary structures meeting requirements of Article 5, Section B(7); and
 - (iii) accessory structures less than 150 square feet meeting requirements of Article 5, Section B(8).
- (4) **Determinations for existing buildings and structures.** For applications for building permits to improve buildings and structures, including alterations, enlargement, movement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:
- (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
 - (b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
 - (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
 - (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

SECTION 15-207. – DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The Floodplain Administrator shall perform, but not be limited to, the following duties:

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local State, local and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (3) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section F are met.
- (6) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all utilities of a new and substantially improved structures, in accordance with the provisions of Article 4, Section B(3).
- (7) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Article 4, Section B(3).
- (8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Article 4, Section B(3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Article 4, Section B(3) and Article 5, Section B(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas floodways or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When Base Flood Elevation (BFE) data has not been provided in accordance with the provisions of Article 3 Section B, obtain, review and reasonably utilize any BFE data, along with floodway or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Article 5, Section D(2)(b) in order to administer the provisions of this ordinance.

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- (12) When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.
 - (13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area above the Base Flood Elevation (BFE), advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.
 - (14) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
 - (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
 - (16) Issue stop work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
 - (17) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
 - (18) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
 - (19) Follow through with corrective procedures of Article 4, Section D.
 - (20) Review, provide input, and make recommendations for variance requests.
 - (21) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with the provisions of Article 3, Section B of

this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

- (22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-FILL) and Letters of Map Revision (LOMRs).

SECTION 15-208. – CORRECTIVE PROCEDURES.

- (1) Violations to be corrected: When the Floodplain Administrator finds violations of applicable State and local laws it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- (2) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - (a) that the building or property is in violation of the floodplain management regulations;
 - (b) that a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - (c) that following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- (3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one-hundred-eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- (4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final, the local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order. j •, j ^
- (5) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or falls to comply with an order of the governing body following an appeal the owner shall be guilty of misdemeanor and shall be punished at the discretion of the court.

SECTION 15-209. – VARIANCE PROCEDURES.

- (1) The Board of Adjustment as established by the Town of Wagram, hereinafter referred to as the "appeal board", shall hear and decide requests for variances fi-om the requirements of this ordinance.
- (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- (3) Variances may be issued for:
 - (a) the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
 - (b) functionally dependent facilities if determined to meet the definition as stated in Article 2 of this ordinance, provided provisions of Article 4, Section E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - (c) any other type of development, provided it meets the requirements of this Section.
- (4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
 - (a) the danger that materials may be swept onto other lands tithe injury of others;
 - (b) the danger to life and property due to flooding or erosion damage;
 - (c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) the importance of the services provided by the proposed facility to the community;
 - (e) the necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependent facility, where applicable;
 - (f) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (g) the compatibility of the proposed use with existing and anticipated development;
 - (h) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) the safety of access tithe property in times of flood for ordinary and emergency vehicles;
 - (j) the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

- (k) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
- (9) Conditions for Variances:
- (a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State or local laws, regulations, or ordinances.
- (b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
- (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (d) Variances shall only be issued prior to development permit approval.
- (e) Variances shall only be issued upon:
- (i) a showing of good and sufficient cause;
- (ii) a determination that failure to grant the variance would result in exceptional hardship; and
- (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (10) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met. ®

- (a) The use serves a critical need in the community.
- (b) No feasible location exists for the use outside the Special Flood Hazard Area.
- (c) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
- (d) The use complies with all other applicable Federal, State and local laws.
- (e) The Town of Wagram has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

SECTION 15-210. – GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION.

In all Special Flood Hazard Areas the following provisions are required:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Regulatory Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters and electric outlets/switches.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.
- (9) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the

floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.

- (10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Article 4, Section E(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Article 4, Section B(3).
- (11) Subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (12) Subdivision proposals and other development proposals shall have public utilities and facilities such as sewer gas electrical, and water systems located and constructed to minimize flood damage. '
- (13) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

SECTION 15-211. – SPECIFIC STANDARDS FOR FLOOD HAZARD REDUCTION.

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Article 3, Section B, or Article 5, Section D, the following provisions, in addition to the provisions of Article 5, Section A are required:

- (1) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.
- (2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance. Structures located in A, AE, AO, and AI-30 Zones may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones the flood proofing elevation shall be in accordance with Article 5, Section G(2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 4, Section B(3), along with the operational plan and the inspection and maintenance plan.
- (3) Manufactured Homes.

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- (a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.
 - (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NOGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
 - (c) All enclosures or skirting below the lowest floor shall meet the requirements of Article 5, Section B (4).
 - (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.
- (4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures which is below the lowest floor:
- (a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
 - (b) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and
 - (c) Shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - (i) a minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - (ii) the total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - (iii) if a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

- (iv) the bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
- (v) flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
- (vi) enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(5) Additions/Improvements

- (a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (i) not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - (ii) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (b) Additions to post-FIRM structures that are a substantial improvement with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
- (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (i) not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
 - (ii) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a (number of years) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the (number of years) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either;
 - (i) any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.

- (ii) any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(6) Recreational Vehicles. Recreational vehicles shall either:

(a) Temporary Placement

- (i) be onsite for fewer than 180 consecutive days; or

- (ii) be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions)

- (b) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary placement shall meet all the requirements for new construction.

(7) **Temporary Non-Residential Structures.** Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

- (a) a specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
- (b) the name, address, and phone number of the individual responsible for the removal of the temporary structure;
- (c) the time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
- (d) a copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
- (e) designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

(8) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- (a) Accessory structures shall not be used for human habitation (including working, sleeping, living cooking or restroom areas);
- (b) Accessory structures shall not be temperature-controlled;
- (c) Accessory structures shall be designed to have low flood damage potential;
- (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

- (e) Accessory structures shall be firmly anchored in accordance with the provisions of Article 5, Section A (l);
- (f) All service facilities such as electrical shall be installed in accordance with the provisions of Article 5 Section A (4); and
- (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Article 5, Section B(4)(c).

An accessory structure with a footprint less than 150 square feet or that is a minimal investment of \$3,000 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Article 5, Section B(2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Article 4, Section B (3).

(9) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- (a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood including the effects of buoyancy assuming the tank is empty;
- (b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the designated flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
- (c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section B (2) of this ordinance shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.
- (d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - (i) at or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - (ii) anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(10) Other Development. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The

following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

- (a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters such as stockade fences and wire mesh fences, shall meet the limitations of Article 5, Section F of this ordinance.
- (b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.
- (c) Road and watercourse crossings, in regulated floodways and NEAs , including roads, bridges, culverts low-water crossings and similar means for vehicles and pedestrians to travel from one side of a watercourse to the other side that encroach into regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.

SECTION 15-212. – RESERVED.

SECTION 15-213. – STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED FLOOD ELEVATIONS.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Article 3, Section B. where no Base Flood Elevation data has been provided by FEMA, the following provisions, in addition to the provisions of Article 5, Section A shall apply:

(1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:

- (a) When Base Flood Elevation (BFE) data is available from other sources, all new construction and improvement within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Article 5, Sections A and B.
- (b) When floodway or non-encroachment data is available from a Federal, State, or other source all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Article5, Sections B and F.
- (c) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development IS greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be

adopted by reference in accordance with Article 3, Section B and utilized in implementing this ordinance.

- (d) When Base Flood Elevation (BFE) date is not available from a Federal, State, or other source as outlined above & the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Article 2. All other applicable provisions of Article 5, Section B shall also apply.

SECTION 15-214. – STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS AND NON-ENCROACHMENT AREAS.

Along rivers and streams where Base Flood Elevation (BFE) data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards of Article 5, Sections A and B; and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community

SECTION 15-215. – FLOODWAYS AND NON-ENCROACHMENT AREAS.

Areas designed as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Article 3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to the standards outlined in Article 5, Sections A and B, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or
 - (b) a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
- (2) If Article 5 Section F (l) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- (3) Manufactured homes may be permitted provided the following provisions are met:

- (a) the anchoring and the elevation standards of Article 5, Section B(3); and
- (b) the encroachment standards of Article 5, Section F(1).

SECTION 15-216. – STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Article 5 Sections A and B, all new construction and substantial improvements shall meet the following requirements:

- (1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least two (2) feet above the highest adjacent grade if no depth number is specified.
- (2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Article 5, Section G(l) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Article 4, Section B(3) and Article 5, Section B(2).
- (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

SECTION 15-217. – LEGAL STATUS PROVISIONS - SEVERABILITY.

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

SECTION 15-218. – EFFECTIVE DATE.

This ordinance shall become effective upon adoption.

SECTION 15-219. – ADOPTION CERTIFICATION.

ARTICLE 18. - DEFINITIONS

Except where specifically defined herein all words used in this Ordinance shall carry their customary meanings. Words used in the present tense shall include the future tense; the singular number includes the plural; the word "building" includes the word "structure"; the word "lot" includes the word "plot" or "parcel"; the term "shall" is

always mandatory; the words "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."

Alley. A public way which affords only a secondary means of access to an abutting property and is not intended for general traffic circulation.

Apartment. See Dwelling, Multi-Family.

Bed and Breakfast Inn. Temporary housing which includes breakfast but no other meals. No more than five (5) rooms are available for rent and the operator lives on the premises.

Billboard. See Sign, Outdoor Advertising.

Building. Any structure enclosed and isolated by exterior walls constructed of or used for residence having a roof supported by columns or by walls and constructed or used for shelter, housing, business, industry, or other public or private purposed or accessory thereto.

Building, Accessory. A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal building or use.

Building, Principal. A building in which is conducted the principal use of the lot on which said building is situated.

Building Line. See Setback Line.

Building Height. The vertical distance measured from the grade to the highest point of the coping of a flat roof; to the deck line of a mansard roof; or to the mean height level between the eaves and ridge or a gable, hip, or gambrel roof.

Church, Club, or Lodge, Private. An incorporated or unincorporated association for civic, social, cultural, religious, fraternal, literary, political, recreational, or like activities, operated on a nonprofit basis for the benefit of its members.

Day Care Facility. Child care arrangement which provides day care on a regular basis for more than four (4) hours per day for more than twelve (12) children, whether operated for profit or not.

Developmentally disabled person. A person who has a severe or chronic disability attributed to mental or physical impairment or a combination thereof, resulting in substantial functional limitations in life activities. Such limitations may affect the person's ability to self-care, utilize receptive and expressive language, learn, be mobile, self-direct, live independently, or be economically self-sufficient. Such persons may require a combination or sequence of special, interdisciplinary, or genetic care, treatment, or other services which are lifelong or extended duration and are individually planned and coordinated.

Dwelling. A building or portion thereof providing complete living facilities for one family. The term "dwelling" shall not be deemed to include a motel, hotel, tourist home, or other structures designed for transient residents.

Dwelling, Single Family. A detached residence designed for or occupied by one family only.

Dwelling, Two Family (Duplex). A residence designed for or occupied by two families only, with separate housekeeping and cooking facilities for each.

Dwelling, Multi-Family. A residence designed for or occupied by three or more families, with separate housekeeping and cooking facilities each.

Family. One or more persons related by blood, marriage, or adoption

Occupying premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging, or hotel.

Family Care Home. A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident handicapped persons. Application for permit shall be accompanied by a map showing the nearest existing family care homes, with certification that the proposed home will be located no closer to them than one-half (1/2) mile.

Frontage. The distance between the two side lot lines as measured along the front street line.

Group Home. A facility providing 24-hour supervision for the custodial care of physically or developmentally disabled children and adults but not including family care homes as provided for in G.S. 168-20 through 168-23. Group homes may include supervised living facilities and residential treatment facilities that primarily provide therapy for juveniles adjudicated as delinquent. Typically there are no more than six residents and there is at least one trained caregiver there twenty-four hours a day. All applications for permit shall be accompanied by a map showing the nearest existing group homes, with certification that the proposed group home will be located no closer to them than one-half (1/2) mile.

Home Occupations. Any occupation or profession carried on entirely within a dwelling by one or more occupants thereof, providing that such use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, that no more than twenty-five percent (25%) of the total floor area or five hundred (500) square feet, no outside or window display, that no merchandise or commodity is sold on the premises, that no mechanical or electrical equipment is installed or used other than is normally used for domestic, professional, or hobby purposes, or for infrequent consultation or emergency treatment, and providing that no more than one (1) person not a resident of said dwelling is employed in connection with the home occupation. In addition, internal or external alterations inconsistent with the residential use of the building shall be prohibited.

Hotel, Motel. Building(s) containing sleeping accommodations for ten (10) or more persons, primarily the temporary abode of persons who have their residences elsewhere.

Junk Yard or Salvage Yard. Use of property for indoor and/or outdoor storage, keeping, abandonment, sale or resale of junk including scrap metal, rags, paper, or other scrap materials, used lumber, salvaged house wrecking, and structural steel, materials and equipment, or for the dismantling, demolition, or abandonment of automobiles or other vehicle or machinery or parts thereof.

Juvenile adjudicated as delinquent. A minor, less than 18 years of age, who has, through the criminal justice system, been determined to have committed offenses or violations of law. Such persons may be subject to, or court ordered to participate in, varying degrees of therapy, treatment, or behavior modification, including specialized living situations and /or incarceration.

Lot. A parcel of land having frontage on a public street or other officially approved means of access occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area, and other open space provisions of this Ordinance and the following definitions:

Lot, corner. A lot abutting two or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side.

Lot, substandard. A parcel of land held in separate ownership having frontage on public street, occupied or intended to be occupied by a principal building or structure together with accessory buildings, and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas, or other open space provisions of this Ordinance.

Lot, depth. The mean horizontal distance between front and rear lot lines.

Lot of Record. A lot which is part of a subdivision or plat of which has been recorded in the office of the Register of Deeds of Scotland County, or a lot described by metes and bounds, the description of which has been so recorded.

Lot, width. The distance between side lot lines measured at the building line.

Manufactured Home. A dwelling unit that (i) is not constructed in accordance with the standards set forth in the North Carolina State Building Code, and (ii) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and (iii) exceeds forty feet in length and eight feet in width (commonly called a mobile home).

Manufactured Home, Class A. A manufactured home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following size and appearance standards:

- (a) The manufactured home has a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis;
- (b) The manufactured home has a minimum of 1,200 square feet of enclosed and heated living area;
- (c) The pitch of the roof of the manufactured home has minimum vertical rise of three and two tenths feet for each twelve feet of horizontal run (3.2 feet and 12 feet) and the roof is finished with a type of composition shingle that is commonly used in standard residential construction;
- (d) The roof eaves and gable overhangs shall be 6-inch minimum (rain gutters may not be included in the minimum dimensions);
- (e) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
- (f) The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, is installed under the perimeter of the manufactured home;
- (g) The front entrance to the manufactured home has stairs and a porch, the porch being at least four feet by six feet in size. Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the North Carolina State Building Code; and
- (h) The moving hitch, wheels, and axles, and transporting lights have been removed.

It is the intent of these criteria to insure that a Class "A" manufactured home, when installed, shall have substantially the appearance of an on-site conventionally built, single-family dwelling, to include landscaping in harmony with surrounding dwellings.

Manufactured Home Park. Any plot of ground upon which five (5) or more manufactured homes occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations.

Modular Home. A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two or more sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the North Carolina State Building Code), or a series of panels or room sections transported on a truck and erected or joined together on the site.

Nonconforming Use. The use of a building or land which does not conform to the use regulations of this Ordinance for the district in which it is located, either at the effective date of this Ordinance or as a result of subsequent amendments which may be incorporated into this Ordinance.

Park Model Home. A dwelling unit that (i) is not constructed in accordance with the standards set forth in the North Carolina State Building Code, and (ii) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported on its own chassis and (ii) does not exceed forty feet in length and eight feet in width.

Parking Space. The storage space of not less than eight (8) feet by twenty (20) feet for one (1) automobile, plus the necessary access space. It shall always be located outside the dedicated street right-of-way.

Physically disabled person. A person with any physical impairment that substantially limits one or more of such person's major life activities. Such impairments may include, but are not limited to, any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory; including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin and endocrine.

Service Station. A building or lot dedicated to the rendering of services such as the sale of gasoline, oil, lubricants, and accessories and the minor repair of automobiles such as tune-ups, brake adjustments, and tire changes excluding body work, overhauling, and painting.

Setback Line. The line on the front, rear, and sides of a lot, set according to the district regulations, which delineates the area upon which a structure may be built or maintained.

Shopping Center. Two or more commercial establishments planned and constructed as a single unit with off-street parking and loading facilities provided on the property and related in location, size, and type of shops to the trade area which the unit serves.

Sign. Any words, lettering, parts of letters, pictures, figures, numerals, phrases, sentences, emblems, devices, flashing lights, design, trade names or trademarks by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity, a product, which are visible from any public way and used to attract attention.

Sign, business. Any sign which advertises an establishment, a service, commodity, or activity conducted upon the premises where such sign is located.

Sign, outdoor advertising (Billboard). Any sign which advertises an establishment, service, commodity, goods or entertainment sold or offered on premises other than that on which the sign is located.

Sign, temporary advertising. Any sign, banner, pennant, valance or advertising display constructed of wood, metal, cloth, canvas, cardboard, wall-board or other light material with or without frames, whether either by reason of construction or purpose are intended to be displayed for a short period of time only.

Sign, freestanding. A sign erected on a freestanding frame, mast or pole, and not attached to any building, and which is permanently affixed to the property.

Street. A dedicated and accepted public right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

Structure. Anything constructed or erected, the use of which requires permanent or semi-permanent location on the ground, or attachment to something having permanent location on the ground, including advertising signs.

Temporary family health care structure. A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that:

- (a) is primarily assembled at a location other than its site of installation,
- (b) is limited to one occupant who shall be the mentally or physically impaired person,
- (c) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

Travel Trailer. A structure that is (i) intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle), and (ii) is designed for temporary use as a sleeping quarters, but that does not satisfy one or more of the definitional criteria of a manufactured home.

Tourist Home. A dwelling in which sleeping accommodations are provided or offered to transient visitors for compensation.

Yard. A required open space on the same lot as the principal building, unoccupied and unobstructed (other than for vegetation) from the ground upward except as otherwise provided herein.

Yard, front. A yard extending across the front of a lot measured from side to lot line to side lot line and lying between the abutting street right-of-way and the front building setback line.

Yard, rear. A yard extending across the rear of the lot measured from side lot line to side lot line and lying between the rear property line and the rear building setback line.

Yard, side. A yard extending along either side of a lot measured from front yard line to rear line and lying between the side lot line and the side setback line.

Zoning Enforcement Officer. The person, officer, or official or his authorized representative, whom the Town Board of Commissioners has designated as its agent for administration of this Ordinance.

DEFINITIONS FOR FACILITIES PROVIDING HEALTH-RELATED CARE

Note: These definitions are provided as a supplement to what is contained in the *section above* to aid in understanding of the many types of health care facilities which may already exist in the town or may apply for permits to locate in the town.

Adult Care Home	<p><i>Adult care home</i> is an assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated, trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes. (G.S. 131D-2.1, G.S. 131D-20)</p> <p><i>Adult care home</i> as distinguished from a nursing home, means a facility operated as a part of a nursing home and which provides residential care for aged or disabled persons whose principal need is a home with the shelter or personal care their age or disability requires. Medical care in an adult care home is usually occasional or incidental, such as may be required in the home of any individual or family, but the administration of medication is supervised. Continuing planned medical and nursing care to meet the resident's needs may be provided under the direct supervision of a physician, nurse or home health agency. Adult care homes are to be distinguished from nursing homes subject to licensure under this part. (G.S. 131E-101)</p> <p><i>Adult care home</i> means a facility with seven or more beds licensed under Part 1 of Article 1 of Chapter 131D of the General Statutes or G.S. Chapter 131E that provides residential care for aged or disabled persons whose principal need is a home which provides the supervision and personal care appropriate to their age and disability and for whom medical care is only occasional or incidental. (G.S. 131E-176)</p>
Adult Day Care Program	<p><i>Adult day care program</i> means the provision of group care and supervision in a place other than their usual place of abode on a less than 24-hour basis to adults who may be physically or mentally disabled. The Department of Health and Human Services shall annually inspect and certify all adult day care programs, under rules adopted by the Social Services Commission. The Social Services Commission shall adopt rules to protect the health, safety, and welfare of persons in adult day care programs. These rules shall include minimum standards relating to management of the program, staffing requirements, building requirements, fire safety, sanitation, nutrition, and program activities. Adult day care programs are not required to provide transportation to participants; however, those programs that choose to provide transportation shall comply with rules adopted by the Commission for the health and safety of participants during transport. (G.S. 131D-6)</p>

Ambulatory Surgical Facility	<p><i>Ambulatory surgical facility</i> means a facility designed for the provision of a specialty ambulatory surgical program or a multispecialty ambulatory surgical program. An ambulatory surgical facility serves patients who require local, regional or general anesthesia and a period of post-operative observation. An ambulatory surgical facility may only admit patients for a period of less than 24 hours and must provide at least one designated operating room or at least one gastrointestinal endoscopy room and at least one designated recovery room, have available the necessary equipment and trained personnel to handle emergencies, provide adequate quality assurance and assessment by an evaluation and review committee, and maintain adequate medical records for each patient. An ambulatory surgical facility may be operated as a part of a physician or dentist's office, provided the facility is licensed under G.S. Chapter 131E, Article 6, Part 4, but the performance of incidental, limited ambulatory surgical procedures which do not constitute an ambulatory surgical program and which are performed in a physician or dentist's office does not make that office an ambulatory surgical facility. (G.S. 131E-146, G.S. 131E-176)</p>
Assisted Living Residence	<p><i>Assisted living residence</i> means any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. The department may allow nursing service exceptions on a case-by-case basis. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. Assisted living residences are to be distinguished from nursing homes subject to provisions of G.S. 131E-102. Effective October 1, 2005, there are two types of assisted living residences: adult care homes and adult care homes that serve only elderly persons. Elderly person means:</p> <ol style="list-style-type: none"> a. Any person who has attained the age of 55 years or older and requires assistance with activities of daily living, housing, and services, or b. Any adult who has a primary diagnosis of Alzheimer's disease or other form of dementia who requires assistance with activities of daily living, housing, and services provided by a licensed Alzheimer's and dementia care unit. <p>Effective July 1, 1996, there is a third type, multiunit assisted housing with services. (G.S. 131D-2.1, G.S. 131D-20)</p>
Chemical Dependency Treatment Facility	<p><i>Chemical dependency treatment facility</i> means a public or private facility, or unit in a facility, which is engaged in providing 24-hour a day treatment for chemical dependency or substance abuse. This treatment may include detoxification, administration of a therapeutic regimen for the treatment of chemically dependent or substance abusing persons and related services. The facility or unit may be:</p>

Family Care Home	<i>Family care home</i> means an adult care home having two to six residents. The structure of a family care home may be no more than two stories high and none of the aged or physically disabled persons being served there may be housed in the upper story without provision for two direct exterior ground-level accesses to the upper story. (G.S. 131D-2.1 ↗ , G.S. 131D-20 ↗)
Group Home for Developmentally Disabled Adults	<i>Group home for developmentally disabled adults</i> means an adult care home which has two to nine developmentally disabled adult residents.
Health Care Facility	<p><i>Health Care Facility</i> means a hospital, psychiatric facility; rehabilitation facility; long-term care facility; home health agency; intermediate care facility for the mentally retarded; chemical dependency treatment facility; and ambulatory surgical facility. (G.S. 131E-154.2 ↗)</p> <p>The following are considered to be <i>health care facilities</i>:</p> <ol style="list-style-type: none"> 1. Adult care homes as defined in G.S. 131D-2.1 ↗ 2. Hospitals as defined in G.S. 131E-76 ↗. 3. Home care agencies as defined in G.S. 131E-136 ↗. 4. Nursing pools as defined by G.S. 131E-154.2 ↗. 5. Hospices as defined by G.S. 131E-201 ↗. 6. Nursing facilities as defined by G.S. 131E-255 ↗. 7. State-operated facilities as defined in G.S. 122C-3(14)f ↗ 8. Residential facilities as defined in G.S. 122C-3(14)e ↗ 9. 24-hour facilities as defined in G.S. 122C-3(14)g ↗ 10. Licensable facilities as defined in G.S. 122C-3(14)b ↗. 11. Multiunit assisted housing with services as defined G.S. 131D-2.1 ↗. 12. Community-based providers of services for the mentally ill, the developmentally disabled and substance abusers that are not required to be licensed under Article 2 of Chapter 122C of the General Statutes ↗. 13. Agencies providing in-home aide services funded through the Home and Community Care Block Grant Program in accordance with G.S. 143B-181.1(a)11 ↗. (G.S. 131E-256 ↗)
Health Service Facility	<i>Health service facility</i> means a hospital; long-term care hospital; psychiatric facility; rehabilitation facility; nursing home facility; adult care home; kidney disease treatment center, including freestanding hemodialysis units; intermediate care facility for the mentally retarded; home health agency office; chemical dependency treatment facility; diagnostic center; hospice office, hospice inpatient facility, hospice residential care

facility; and ambulatory surgical facility. (G.S. 131E-176 [↗](#))

Hospice Inpatient Facility

Hospice inpatient facility means a freestanding licensed hospice facility or a designated inpatient unit in an existing health service facility which provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of terminally ill patients and their families in an inpatient setting. (G.S. 131E-176 [↗](#), G.S. 131E-201 [↗](#))

Hospice Residential Care Facility

Hospice residential care facility means a freestanding licensed hospice facility which provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of terminally ill patients and their families in a group residential setting. (G.S. 131E-176 [↗](#), G.S. 131E-201 [↗](#))

Hospital

Hospital means any facility which has an organized medical staff and which is designed, used, and operated to provide health care, diagnostic and therapeutic services, and continuous nursing care primarily to inpatients where such care and services are rendered under the supervision and direction of physicians licensed under [Chapter 90 of the General Statutes, Article 1](#) [↗](#), to two or more persons over a period in excess of 24 hours. The term includes facilities for the diagnosis and treatment of disorders within the scope of specific health specialties. The term does not include private mental facilities licensed under [Article 2 of Chapter 122C of the General Statutes](#) [↗](#), nursing homes licensed under [G.S. 131E-102](#) [↗](#), and adult care homes licensed under [Part 1 of Article 1 of Chapter 131D](#) [↗](#). (G.S. 131E-76 [↗](#))

Hospital means a public or private institution which is primarily engaged in providing inpatients, by or under supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. The term includes all facilities licensed pursuant to [G.S. 131E-77](#) [↗](#) of the General Statutes, except long-term care hospitals. (G.S. 131E-176 [↗](#))

Intermediate Care Facility for the Mentally Retarded

Intermediate care facility for the mentally retarded means facilities licensed pursuant to [Article 2 of Chapter 122C of the General Statutes](#) [↗](#) for the purpose of providing health and habilitative services based on the developmental model and principles of normalization for persons with mental retardation, autism, cerebral palsy, epilepsy or related conditions. (G.S. 131E-176 [↗](#))

Kidney Disease Treatment Center	<i>Kidney disease treatment center</i> means a facility that is certified as an end-stage renal disease facility by the Centers for Medicare and Medicaid Services, Department of Health and Human Services , pursuant to 42 C.F.R. § 405 (G.S. 131E-176)
Long-Term Care Facility	Long-term care facility means a nursing home as defined in G.S. 131E-101(6) and an adult care home as defined in G.S. 131D-2.1(3) or G.S. 131E-101(1). (G.S. 131E-231)
Nursing Care	<p><i>Nursing care</i> means:</p> <ol style="list-style-type: none"> a. Skilled nursing care and related services for residents who require medical or nursing care; b. Rehabilitation services for the rehabilitation of injured, disabled, or sick persons; or c. Health-related care and services provided on a regular basis to individuals who because of their mental or physical condition require care and services above the level of room and board, which can be made available to them only through institutional facilities. <p>These are services which are not primarily for the care and treatment of mental diseases. (G.S. 131E-176)</p>
Nursing Home	<p><i>Nursing home</i> means a facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the licensee. A <i>nursing home</i> is a home for chronic or convalescent patients, who, on admission, are not as a rule, acutely ill and who do not require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. A <i>nursing home</i> provides care for persons who have remedial ailments or other ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision. (G.S. 131E-101)</p> <p><i>Nursing home</i> means a nursing home licensed under this Chapter and includes an adult care home operated as part of a nursing home. (G.S. 131E-128.1)</p>
Psychiatric Facility	<i>Psychiatric facility</i> means a public or private facility licensed pursuant to Article 2 of Chapter 122C of the General Statutes and which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons. (G.S. 131E-176)

Rehabilitation Facility *Rehabilitation facility* means a public or private inpatient facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical and other services which are provided under competent, professional supervision. (G.S. 131E-176 [↗](#))

Definitions above are found at North Carolina Division of Health Services Regulation at the Department of Health and Human Services. Web address - <http://www2.ncdhhs.gov/dhsr/glossary.htm>.

Rest Home – See Nursing Home.

Skilled Nursing Facility – See Nursing Home.

Group Home - A facility providing 24-hour supervision for the custodial care of physically or developmentally disabled children and adults but not including family care homes as provided for in G.S. 168-20 through 168-23. Group homes may include supervised living facilities and residential treatment facilities that primarily provide therapy for juveniles adjudicated as delinquent. Typically there are no more than six residents and there is at least one trained caregiver there twenty-four hours a day. All applications for permit shall be accompanied by a map showing the nearest existing group homes, with certification that the proposed group home will be located no closer to them than one-half (1/2) mile.

Temporary family health care structure - A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that:

- (d) is primarily assembled at a location other than its site of installation,
- (e) is limited to one occupant who shall be the mentally or physically impaired person,
- (f) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

CHAPTER 16. – PUBLIC RECORDS

ARTICLE 1. - GENERAL

SECTION 16-1. – CUSTODIAN AND RECORDS MANAGEMENT PROGRAM.

The Town Clerk shall be the custodian of all official Town records and shall be responsible for administering the records management program.

SECTION 16-2. – MUNICIPAL RECORDS RETENTION AND DISPOSITION.

All official Town records, both paper and those maintained in electronic form, shall be maintained in accordance with the municipal records retention and disposition schedule issued by the division of archives and history, department of cultural resources, which is on file in the office of the Town Clerk.

SECTION 16-3. – PUBLIC ACCESS.

Records shall be made available to the public, under the supervision of Town personnel in the department in which the record is maintained, during regular office hours. No Town record may be removed from the premises.

State Law Reference— Inspection and examination of records, G.S. 132-6.

SECTION 16-4. – COPYING.

Photocopies of any public record, unless the document has been deemed, according to state law, to be a confidential record, shall be provided to any citizen upon request and payment of the appropriate fee. Further provided as follows:

- a) *Need to create records.* If the information requested is contained in a set of records, but would require compilation in order to create the record desired, it will be the requester's responsibility to perform such compilation and not the responsibility of the Town. If the Town finds it appropriate to provide such service, it may negotiate a reasonable charge to provide the information to the requester.
- b) *Computer database records.* Requests for copies of computer databases must be submitted, in writing, to the department in which the record is maintained. Any copies furnished shall exclude any information which has been determined by state law to be confidential. Any confidential data contained in a record shall be eliminated from the record furnished to the public.
- (c) *Geographic information systems (GIS).* Any person requesting a copy of information contained in the geographic information system (GIS) must sign a document agreeing not to resell or

otherwise use the information for trade or commercial purposes. If a person requesting a copy of the GIS wishes to resell the information or otherwise use it for trade or commercial purposes, the cost for the information supplied by the Town shall be negotiated by the Town Clerk or Town Board of Commissioners.

- d) *Forms of available records.* If a record is maintained in non-electronic form, the Town will not be required to create an electronic version for the sole purpose of public distribution.
- e) *Diskettes and/or Compact Discs (CDs).* All diskettes and/or CDs used to obtain Town data shall be furnished by the Town. No other diskettes and/or CDs shall be used in Town owned computers.

SECTION 16-5. – FEES AND CHARGES.

Copies of records may be obtained at the current rates which are set from time to time and a schedule of such rates is on file and available in the Town Clerk's office. A special service charge, in addition to the actual cost of duplication, shall be charged where:

- a) The request requires extensive use of information technology resources or extensive clerical or supervisory assistance by personnel; or
- b) Producing the record in the medium requested results in a greater use of information technology resources than that established by the Town for reproduction of the volume of information requested. This special service charge will be based on the actual cost incurred for such extensive use of the resources or personnel involved in the fulfillment of the request.

SECTION 16-6. – CONFIDENTIAL INFORMATION TO BE REMOVED.

If the records being requested contain confidential information which is commingled with public information, the confidential information shall be deleted from the record before it is distributed to the public or made available for review by the public.

State Law Reference— Requests, scope, examination, copying, G.S. 132-6—132-6.2.

SECTION 16-7. – 16-10. – RESERVED.

CHAPTER 17. – PUBLIC SAFETY

ARTICLE 1. – POLICE PROTECTION

PART A.

SECTION 17-1. – RULES AND REGULATIONS

The Mayor, in consultation with the Chief of Police, shall promulgate rules and regulations for the government of the Police Department, its personnel, and property. Such rules and regulations, when approved by the Town Board of Commissioners and placed on file in the office of the Town Clerk, shall be binding on all personnel of the Police Department, and it shall be unlawful for any member of the Police Department to violate or fail to comply with any such rule or regulation. Fees related to finger printing and other various service shall be set by the Board of Commissioners from time to time and included in the Town's schedule of rates and fees.

State Law Reference: Law enforcement, see G.S. § 160A-281 et seq.

SECTION 17-2. – COMPOSITION; RANKS AND DESIGNATIONS OF MEMBERS

The Police Department shall consist of the Chief of Police and such other personnel as may from time to time be authorized by the Town Board of Commissioners. Personnel subordinate to the Chief of Police shall have such ranks or position designations as may from time to time be authorized by the Town Board of Commissioners.

SECTION 17-3. – AUTHORITY OF MAYOR TO COMMAND POLICE DEPARTMENT DURING STATE OF EMERGENCY

During the effective period of any state of emergency proclaimed by the Mayor under the provisions of [Article 3](#), the Mayor may assume command of the Police Department.

SECTION 17-4. – AUXILIARY POLICE DEPARTMENT

- (a) On public occasions, or upon the existence of conditions under which, in the sound discretion of the Mayor in consultation with the Chief of Police, it appears necessary to augment the authorized strength of the Police Department to assure maintenance of the public peace and order, or to assure that normal police department functions will be performed efficiently under abnormal conditions, the Mayor may appoint or authorize the appointment of special police officers, and he or she may designate their duties and the localities in which they shall perform their duties. Special police officers so appointed shall be under command of the Chief of Police and other police officers superior to them in rank.
- (b) An Auxiliary Police Department is hereby created to assist and complement the Police Department under authority granted by G.S. § 160A-282 of the North Carolina General Statutes.
 - (1) In creating this Department, the number of members shall be limited to ten, with each officer performing 12 hours of duty per calendar month; and
 - (2) Members of the auxiliary force will be certified as sworn officers in the State of North Carolina and required to attend regular, scheduled training sessions and schools as assigned by the Chief of Police; and

- (3) Members of the auxiliary force, while on duty, will be assigned a patrol partner who is a full time member of the Department; and
- (4) Members of the auxiliary force will serve at the pleasure of the Chief of Police; and
- (5) The members shall serve without compensation, but will be entitled to benefits under the North Carolina Workers Compensation Act and to any fringe benefits for which such volunteer personnel qualify.

Statutory reference: *Auxiliary law enforcement personnel, see G.S. 160A-282*

SECTION 17-5. – CHIEF OF POLICE

- (a) The Chief of Police shall:
 - i. Be chief executive and commanding officer of the Police Department and all personnel thereof.
 - ii. Be chargeable with and responsible for the enforcement of all laws and ordinances and all rules and regulations of the Department, provided, that where by law, this code, or other ordinance the Chief of the Fire Department, the Building Inspector, or other officer has the primary duty to enforce any law or ordinance, the Chief of Police shall cooperate with such other officers and render such assistance to them as may be necessary.
 - iii. Assign personnel of the Police Department to their respective duties, and he or she may change such assignments from time to time, whenever in his or her judgment the exigencies of the service shall require such change. He or she shall maintain a roster of police officers to respond to all fire alarms and assist the Fire Department in the protection of life and property, in regulating traffic, maintaining order, and in enforcing observance at the scene of any fire of all laws and ordinances applicable thereat.
 - iv. Have the power to suspend without pay, pending the outcome of the trial of charges, any member of the Police Department; provided, that no such suspension shall be continued for a period of more than ten days without approval of the Mayor. If the suspension of any member of the Police Department is not confirmed by the Mayor on the charges preferred, such member shall be entitled to full pay from date of suspension.
 - v. Have general care of the peace of the town and shall see to it that all subordinates do their duty in preserving the peace.

Cross-reference: *Authority of Town Board of Commissioners to appoint a Chief of Police, see Charter; (1949 Ordinance, Chapter D)*

SECTION 17-6. – POLICE OFFICERS; AUTHORITY, DUTIES

- (a) Police officers shall have authority pursuant to G.S. §§ 15A-501 and 160A-285, to arrest all persons for violations of the laws of the state or provisions of this code or other ordinances of the town, and to execute, anywhere in the police jurisdiction of the town, any warrant or process.
- (b) If resisted in the discharge of their official duties, the police officers shall have authority to summon and deputize a sufficient number of citizens to aid in enforcing the law. Any person summoned or

deputized to assist a police officer in the discharge of his or her duty shall, for the time, have authority equal to that of a regular police officer.

- (c) It shall be the duty of police officers:
- i. To suppress all disturbances and arrest all offenders against the laws of the state or ordinances of the town.
 - ii. To prevent injuries to town property and buildings, and to the streets and sidewalks of the town.
 - iii. During nighttime, to examine all persons abroad whom they have reason to suspect of any unlawful design.
 - iv. To hold themselves in readiness at all times to answer the calls, and obey the orders, of their superiors.
 - v. To conform to all rules and regulations of the Police Department.
 - vi. To render their services with zeal, courage, discretion, and fidelity.
 - vii. When designated for such purpose by the Chief of Police, to serve and execute tax levy papers and conduct tax sales under the general direction of the Tax Collector.
 - viii. To report to their superiors any information given them by responsible persons as to violations of law, this code, or ordinance; and to report conditions or circumstances within their own knowledge which give rise to reasonable supposition of violations of laws or ordinances; and to make such investigation thereof as may be directed by their superiors.
 - ix. To perform all duties and obey all commands lawfully assigned to or given them by their superior officers.
- (d) No member of the Police Department shall absent himself from his or her duties without leave by his or her superior officer.

Statutory reference: *Powers and duties of police officers, see G.S. 160A-285*

SECTION 17-7. – GROUNDS FOR DISMISSAL

- (a) No police officer shall:
1. Be under the influence of any narcotic or intoxicating liquor while on duty;
 2. Be guilty of immoral conduct;
 3. Visit a disorderly house except in the discharge of his or her legitimate duty;
 4. Absent himself from the town without the permission of the Chief of Police;
 5. Enter into any collusion with any prosecutor, defendant, or witness;
 6. Solicit business for any practicing attorney or professional bondsman;
 7. Neglect the performance of any duty lawfully imposed upon him or her; or
 8. Be guilty of other conduct, which, in the opinion of the Town Board of Commissioners, renders him or her unfit for the duties of a policeman.
- (b) Any police officer violating division (A) above shall be suspended or dismissed from the service if the Town Manager, after investigation and hearing, is satisfied that the police officer has violated any of the provisions of this section.

SECTION 17-8. – ARREST PROCEDURE

Persons arrested by town police officers shall, without undue delay, be taken before the appropriate judicial official having jurisdiction of the alleged offenses, in accordance with the procedures set forth in G.S. § 15A-501.

SECTION 17-9. – OVERTIME WAGES

- (a) Pursuant to section 7(k) of the Fair Labor Standards Act of 1938, as amended, law enforcement personnel are eligible for overtime wages only for time worked in excess of the maximum total permitted per designated work period.
- (b) Law enforcement employees of the town shall work on a work period of 28 days in length.
- (c) This section shall affect only those law enforcement personnel who are eligible for the exception set forth in the Act cited in division (A) above. The Town Clerk is directed to notify all affected employees of this action.

Statutory reference: Exemptions from overtime wage requirements, see G.S. § 95-25.14

SECTIONS 17-10.- 17-50. RESERVED.

ARTICLE 2. – FIRE PROTECTION AND EMERGENCY SERVICES

SECTION 17-51. – FIRE PROTECTION.

Refer to Service Agreements North Scotland Volunteer Fire Department and Scotland County Emergency Medical services (EMS).

(1949 Ordinance, Chapter C.)

SECTION 17-52. – 17-75. – RESERVED.

ARTICLE 3. – CIVIL EMERGENCIES

SECTION 17-76. – STATE OF EMERGENCY, PROCLAMATION BY MAYOR; RESTRICTIONS AUTHORIZED.

A state of emergency shall be deemed to exist whenever during times of great public crisis, disaster, rioting, catastrophe or similar public emergency, for any reason, municipal public safety authorities are unable to maintain public order or afford adequate protection for lives, safety or property. Policy shall be as follows:

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- a) In an existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within the Town or threatening damage to or destruction of property, the Mayor of the Town is hereby authorized and empowered to issue a public proclamation declaring to all persons the existence of such a state of emergency and, in order to more effectively protect the lives and property of people within the Town, to place in effect any or all of the restrictions authorized in this section.
- b) The Mayor is hereby authorized and empowered to limit by the proclamation the application of all or any part of such restrictions to any area specifically designated or described within the corporate limits of the Town and to specific hours of the day or night and to exempt from all or any part of such restrictions, while acting in the line of and within the scope of their respective duties, law enforcement officers, firefighters and other public employees, rescue squad members, doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel, whether state or federal; on-duty employees of public utilities, public transportation companies and newspaper, magazine, radio broadcasting and television broadcasting corporations operated for profit; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health and welfare needs of the people within the Town.
- c) The Mayor shall proclaim the end of such state of emergency or all or any part of the restrictions imposed as soon as circumstances warrant or when directed to do so by the Town Board of Commissioners.
- d) During the existence of a proclaimed state of emergency, the Mayor may impose by proclamation any or all of the following restrictions:
- (1) Prohibit or regulate the possession off one's own premises of explosives, firearms, ammunition or dangerous weapons of any kind and prohibit the purchase, sale, transfer or other disposition thereof;
 - (2) Prohibit or regulate the buying or selling of beer, wine or intoxicating beverages of any kind and their possession or consumption off one's own premises;
 - (3) Prohibit or regulate any demonstration, parade, march, vigil or participation therein from taking place on any of the public ways or upon any public property;
 - (4) Prohibit or regulate the sale of gasoline, kerosene, naphtha or any other explosive or inflammable fluids or substances;
 - (5) Prohibit or regulate travel upon any public street, alley or roadway or upon any other public property, except by those in search of medical assistance, food or other commodity or service necessary to sustain the well-being of themselves or their families or some member thereof;

- (6) Prohibit or regulate the participation in or carrying on of any business activity and prohibit or regulate the keeping open of places of business, places of entertainment and any other places of public assembly.
- e) Any proclamation may be extended, altered or repealed in any particular during the continued or threatened existence of a state of emergency by the issuance of a subsequent proclamation.
- f) During the existence of a proclaimed state of emergency, it shall be unlawful for any person to violate any provision of any restriction imposed by any proclamation authorized by this section.
- g) The violation of any provision of this section or of any provision of any restriction imposed by any proclamation authorized by this section shall constitute a misdemeanor, punishable in accordance with the provisions of section 1-12

State Law Reference— Authority to deal with states of emergency, G.S. § 14-288.12; Town and county financial support for rescue squads, G.S. § 160A-487; North Carolina Emergency Management Act, G.S. § 166A-1 et seq.

SECTION 17-77. – LIMITATIONS AND EXEMPTIONS AUTHORIZED IN PROCLAMATION.

The Mayor is authorized and empowered to limit by the proclamation the application of all or any part of such restrictions to any area specifically designated or described within the limits of the Town and to specific hours of the day or night; and to exempt from all or any part of such restrictions law enforcement officers, firefighters and other public employees, doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel whether state or federal; on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health and welfare needs of the people within the Town.

SECTION 17-78. – EXTENSION, AMENDMENT AND REPEAL OF PROCLAMATION.

Any proclamation may be extended, altered or repealed in any particular during the continued or threatened existence of a state of emergency by the issuance of a subsequent proclamation.

SECTION 17-79. – AUTHORITY TO REQUEST STATE POLICE AND MILITARY FORCES; WHEN PROCLAMATION OF MARTIAL LAW MAY BE RECOMMENDED TO GOVERNOR.

If, in the sound discretion of the Mayor, it shall appear that the emergency is or that the threatened emergency is likely to be of such proportions that the means available to the Town to maintain law and order are insufficient for such purpose, the Mayor shall, promptly and by the most expeditious means of communication, inform the governor of the situation and request that such necessary police or military forces of the state be provided promptly; and if, during an actual state of emergency, the mayor shall find that the civil courts having jurisdiction within the Town are unable to perform their lawful duties and that, by reason of widespread lawlessness, writs and other processes cannot be served or executed in the Town, the Mayor shall inform the Governor of such findings and may recommend to the governor that a state of martial law be proclaimed to exist within the Town.

SECTION 17-80. – TERMINATION OF RESTRICTIONS AND OF EMERGENCY.

The Mayor shall proclaim the end of such state of emergency or all or any part of the restrictions imposed as soon as circumstances warrant or when directed to do so by the Town Board of Commissioners.

SECTION 17-81. – REQUIRED COMPLIANCE WITH PROCLAMATION.

During the existence of a proclaimed state of emergency, it shall be unlawful for any person to violate any provision of any restriction imposed by any proclamation authorized by this chapter.

State Law Reference— Authority to enact ordinances to deal with states of emergency, G.S. 14-288.12; authority to tax therefor, G.S. 160A-209(c)(9); county and municipal emergency management, G.S. 166A-7._

SECTION 17-82. – 17-100. – RESERVED.

CHAPTER 18. – PUBLIC WORKS

ARTICLE 1. – SOLID WASTE COLLECTION AND DISPOSAL.

SECTION 18-1. – SOLID WASTE MANAGEMENT.

The Town of Wagram contracts for solid waste collection. Information concerning collection practices may be found in the service contract.

(Ord. 124 and Amendments; Ord. 126; Ord. 132; Ord. 2013-01)

SECTION 18-2. – 18-20. RESERVED.

CHAPTER 19 – STREETS AND SIDEWALKS

ARTICLE 1. - GENERAL

SECTION 19-1. – DAMAGE TO STREETS OR SIDEWALKS; RECOVERY OF COSTS TO REPAIR.

No person shall injure, deface or mar in any manner whatsoever any of the streets or sidewalks of the Town. The Town shall have the right and privilege to repair any such injury, defacement or mar and assess the cost thereof against the offender.

(1949 Ordinance, Chapter H)

SECTION 19-2. – GRADES.

The Town shall have the authority to establish and change the grades of the streets and sidewalks within the Town as may be necessary.

SECTION 19-3. – GRADE LEVEL OF RAILROAD TRACKS.

- a) It shall be unlawful for any railroad company to lay down tracks in or on any street or avenue in the Town without having first obtained from the Town the proper grade of such street or avenue over which the line of such railroad is to run if such street or avenue has been brought to grade. Such railroad shall be put on exact grade so as not to impede or interfere with travel. If such street or avenue has not been brought to grade, then such railroad must be laid so as to conform to the then surface of the street so as not to interfere with travel over and along such street. If any company shall lay down tracks on streets not brought to grade, the right of the Town to grade such street in the future shall not be prejudiced, and the owners, proprietors and lessees of such railroad tracks shall be required to raise or lower such tracks so as to conform to the grade of the streets, without cost to the Town, whenever the Town Board of Commissioners may direct the same to be done.
- b) Nothing in this section shall be so construed as to prejudice the existing rights of the Town to compel all persons or companies now owning or controlling railroad tracks in the Town to raise or lower the tracks so as to conform to grade of streets when such streets are brought to grade.

SECTION 19-4. – OBSTRUCTION OF STREETS OR SIDEWALKS.

- a) No persons shall obstruct any of the streets or sidewalks in the Town in such manner as to hinder or delay the travel thereon on foot or otherwise. For purposes of this section, the term "obstruct" means to place a physical barrier or object within such street or sidewalk. In such case it shall be the duty of the police to cause such obstruction removed and to keep such streets and sidewalks clear for the travel of the public.

- b) No person shall obstruct any of the streets or sidewalks in the Town by placing thereon any boxes, merchandise or other things. This section shall not be construed to prevent merchants from making reasonable use of sidewalks when receiving or shipping goods, nor shall it prevent the use of three (3) feet of sidewalk space next to their stores for the display of goods, provided that no such display shall be made unless the entire sidewalk area is paved from the building or property line to the curb line and unless ample space is left on sidewalk for pedestrians.
- c) This section shall not be construed so as to prohibit the Town to barricade, rope off or otherwise obstruct any street or sidewalk in the Town when the same may become necessary for the protection, health or welfare of the citizens of the Town.

State Law Reference— Town's duty to keep public streets free from unnecessary obstructions, G.S. § 160A-296(a)(2).

SECTION 19-5. – PROTECTION OF STREETS OR SIDEWALKS UNDER CONSTRUCTION.

No person shall ride, lead or drive or cause to be ridden, led or driven, any horse or other animal or drive or cause to be driven any automobile or other vehicle upon any street or sidewalk when the same is barricaded and under the process of construction, nor shall any person in any other manner cause any damage to such street or sidewalk.

SECTION 19-6. – VEHICLES ON SIDEWALKS.

No person shall ride, pull, push or drive any vehicle whatsoever, except baby carriages, on any of the sidewalks within the fire limits.

State Law Reference— Driving motor vehicle on sidewalk prohibited, G.S. § 20-160.

SECTION 19-7. – CERTAIN WHEELS, TIRES, ETC. RESTRICTED.

It shall be unlawful for any person to drive or cause to be driven any traction engine or other vehicle with lugs or corrugations in the wheels thereof over the permanently paved streets of the Town, unless suitable provisions are made by planking or otherwise to the satisfaction of the Town so that such corrugations or lugs will not damage the pavement.

SECTION 19-8. – DEPOSIT OF GLASS OR OTHER SHARP OBJECTS ON STREETS.

No person shall throw, place or deposit any glass or other sharp cutting substance or any injurious obstruction in or upon any of the public streets of the Town.

State Law Reference— Placing glass or injurious obstruction upon highway prohibited, G.S. § 136-91.

SECTION 19-9. – AWNING DIMENSIONS.

It shall be unlawful for any person to erect or maintain any awning or other similar object which has a clearance of less than seven (7) feet above the level of any sidewalk or which extends over the traveled portion of the street in

front of the building to which it may be attached; provided, however, that stationary awning arms shall be at least eight (8) feet above the level of the sidewalk.

SECTION 19-10. – DAMAGE TO CURBS.

It shall be unlawful for any person to break and remove the street curbing in any of the Town's improved streets, except when a permit for the same has been issued by the Town. Persons causing damage shall be held liable for the full costs of repair or replacement.

State Law Reference— Authority to regulate digging in the streets, G.S. § 160A-296(6); curb cut regulations, G.S. § 160A-307.

SECTION 19-11. – STREET NUMBERS FOR BUILDINGS.

- a) All structures fronting on any street or alley in the Town shall be numbered in some conspicuous place, by the owner thereof, according to the map made by the Town for such purpose and on file in his office, all odd numbers being on one (1) side of the street and all even numbers on the other.
- b) Any person desiring to have a number put on his structure shall first apply to the Town Clerk for the proper number, and any person failing or refusing to put the proper number on his structure or putting the wrong number thereon or failing or refusing to comply with any other requirement of this section shall be guilty of a misdemeanor.

SECTION 19-12. – BARBED WIRE PROHIBITED.

No person shall erect, maintain or allow on any premises along any street or alley of the Town any barbed wire or barbed wire fence where or in such manner as to constitute a danger to passers-by.

SECTION 19-13. – WHEN ELECTRIC FENCES ALLOWED.

It shall be unlawful for any person to erect, install or construct, operate or maintain or allow the installation or operation of a fence or similar structure or device which is electrically charged within the corporate limits without obtaining a permit from the Town Clerk and enclosing such electric fence, structure or device with a fence at least four (4) feet in height and of sufficient density to restrain anyone from coming in contact with such electric fence, structure or device and posting a warning sign.

SECTION 19-14. – 19-25. – RESERVED.

ARTICLE 2. – LOCAL IMPROVEMENTS.

SECTION 19.26. – AUTHORITY OF TOWN BOARD OF COMMISSIONERS.

The provisions of this article shall not make it mandatory upon the Town Board of Commissioners to approve any petitions for local improvements, nor shall the Town Board of Commissioners be obligated in any manner to cause any local improvements to be made pursuant to any petitions that may be approved, and all improvements made or authorized by the Town Board of Commissioners shall be subject to the availability of funds.

SECTION 19.27. – PROCEDURES AND METHODS.

The procedures and methods of making public improvements as provided for in this article shall be governed by and be in accordance with the provisions of the General Statutes and the Charter, as amended, as the same shall apply to the Town.

SECTION 19.28. – ASSESSMENTS FOR IMPROVEMENTS - GENERAL.

Except as otherwise provided in this article, all local improvements within the Town of the nature set forth in this article shall be made by assessment against the abutting property owners in accordance with the provisions of the General Statutes and the Charter, as amended, as the same shall apply to the Town, and the cost of such improvements shall be apportioned as provided in this article. However, in any project for any of the improvements or combination thereof within the Town of the nature set forth in this article in which the total cost to be paid by the Town for the project will not be more than the total cost to be paid by the Town on an assessment basis as set forth in the General Statutes, the Charter, as amended, and this article and in the project for any such improvements in which all or a portion of the costs thereof are paid from community development block grant funds provided by the federal government, the Town Board of Commissioners may, in its discretion, elect to perform the project without assessing abutting property owners for any portion of the cost thereof.

SECTION 19.29. – ASSESSMENTS FOR IMPROVEMENTS - STREETS.

Assessments for street surfacing or resurfacing improvements, except for street intersections, shall be by assessment of one-third of the total cost against the abutting property owners on each side of the street being improved; the remaining one-third and the cost of improving street intersections shall be paid by the Town. The total cost subject to assessment shall include engineering costs, excavation, sub-base, base course paving and any other costs which may be involved and shall also include all costs involved in street drainage, piping, catch basins, manholes and associated structures wherever located, except on private property. To the sum of all costs assessed against each property owner, eight (8) percent of that cost will be added to cover legal and assessment costs.

SECTION 19.30. – ASSESSMENTS FOR IMPROVEMENTS – CURBS AND GUTTERS.

Assessments for curb and gutter improvements shall be made by assessing against the abutting property owner one-half of the total cost per lineal foot of curb and gutter for each foot of the property owner's frontage, with the

Town to pay one-half of the cost. The cost of curb and gutter shall include engineering, grading and any other costs involved in the curb and gutter portion of the street improvement involved.

SECTION 19.31. – EFFECT OF PRIOR ASSESSMENTS.

No assessment shall be made against an abutting property owner for street improvements for which an assessment has previously been made.

SECTION 19.32. – CERTAIN IMPROVEMENTS AT COST OF TOWN.

Street surfacing or resurfacing improvements, including curbs and gutters, at street intersections, exclusive of sidewalks at such intersections, will be paid by the Town. The Town will share in the cost of oversized street improvements as provided by Section 19-36.

SECTION 19.33. – MAINTENANCE WORK NOT TO BE ASSESSED.

- a) Resurfacing of streets which have previously been improved (i) where the costs of such improvements were paid by assessment as provided by state law, the Town Charter and this article, or (ii) the total cost of such improvements paid by the Town was not more than the Town would have paid on an assessment basis, or (iii) such improvements as constructed comply with the right-of-way and design and construction standards shall be considered maintenance and shall be done and performed at the expense of the Town without assessment against the abutting property owners.
- b) All other surfaced streets classified as local access residential streets shall be maintained in such street's existing condition by patch maintenance until such street has been improved on an assessment basis as provided in this article or has been improved with curb and gutter without assessment at a total cost to the Town of not more than the Town would have paid on an assessment basis as provided in this article.

SECTION 19.34. – PROVISION FOR SIDEWALK IMPROVEMENTS WITHOUT ASSESSMENT; PROTECTING THE PUBLIC WELFARE.

If the Town Board of Commissioners shall, in its discretion, determine that heavy pedestrian traffic exists and likely will continue to exist for an indefinite period along any street within the Town and that such pedestrian traffic is generated by facilities operated and maintained by public funds such as a public school and that the convenience, safety and welfare of the public generally would be served and promoted by the construction and maintenance of sidewalks on either or both sides of such street, the Town Board of Commissioners may cause sidewalks to be constructed on either or both sides of such street without expense to the property owners abutting on such sidewalks.

SECTION 19.35. – CORNER LOT EXEMPTION.

If a corner lot is used as a single lot, where surfacing and other associated street improvements have already been made on an assessment basis on the intersecting street on which the lot abuts, no assessment shall be made against the lot for improvement on the non-improved side for any part of the frontage of such lot, except that portion in excess of one hundred fifty (150) feet or seventy-five (75) percent of the improved frontage, whichever is greater. This section shall only apply to residential lots.

SECTION 19.36. – IMPROVEMENTS TO OVERSIZED STREETS.

When a street is to be improved on an assessment basis and it is necessary for the street to be wider than a local access street (thirty-one (31) feet back of curb to back of curb), the abutting property owners shall only be assessed for those improvement costs which would have been assessed if the street had been a local access street, with the remainder of the additional cost being borne by the Town. When a street is to be improved on an assessment basis and it is necessary or desirable to use street drainage pipes with a diameter in excess of fifteen (15) inches, the abutting property owners shall only be assessed for the cost of fifteen-inch drainage pipe, with the additional cost of a pipe in excess of fifteen (15) inches in diameter being borne by the Town.

SECTIONS 19.37. – 19.50. – RESERVED.

ARTICLE 3. – DRIVEWAYS.

SECTION 19.51. – APPLICABILITY.

Except as otherwise expressly provided, the provisions of this article shall apply and shall govern the construction of all driveways, whether for commercial purposes or establishments or noncommercial purposes or establishments, within the Town.

SECTION 19.52. – PROCEDURE FOR DRIVEWAY IMPROVEMENTS.

Before any driveway shall be constructed, built or repaired within the Town, the person desiring to do the same shall:

- a) Obtain a zoning permit from the Town;
- b) Obtain an appropriate permit from the building inspector;
- c) Pay a permit fee in an amount to be determined from time to time by the Town Board of Commissioners and listed in the schedule of fees and charges maintained in the Clerk's office.

SECTION 19.53. – NUMBER AND WIDTH OF DRIVES.

No individual driveway entrance constructed within the Town shall be of a greater width than fifty (50) feet, measured parallel to the street or roadway, or wider than one-third of the lot frontage, whichever is smaller. If the lot frontage does not permit the use of two (2) driveways of one-third lot frontage as limited in this section, then one (1) combined entrance and exit of a maximum width of fifty (50) feet may be provided. Notwithstanding the

above and regardless of the number of driveways, the combined width of all driveways shall not exceed two-thirds of the width of the lot on any street.

SECTION 19.54. – AREA BETWEEN AND ADJACENT TO DRIVEWAYS.

The frontage on the street or road right-of-way other than the driveway itself shall be either curb or gutter or in the form of a ditch or drain. Modification thereof may be permitted, provided proper drainage is constructed and curbs or posts or other safeguards are installed to prevent misuse. A written permit for any modification must be obtained from the Town before any work is started.

SECTION 19.55. – RETURN RADII.

Suitable return radii for driveways shall be provided as determined by the building inspector.

SECTION 19.56. – CORNER SIGHT AREAS.

At intersections where sight-distance or clear-vision areas have been obtained, no driveway shall be permitted to cross such areas. The driveway at the right-of-way line should begin at a point no closer than the intersection of the sight-distance line and the right-of-way line.

SECTION 19.57. – DRAINAGE.

The drainage in street or roadside ditches shall not be altered or impeded. The person constructing any driveway within the Town shall provide suitable drainage structures at entrances and exits at his own expense.

SECTION 19.58. – INTERSECTIONS.

No driveway or entrance shall be permitted to enter directly into an intersection, but shall be so placed as to turn traffic into a major or minor street before passing through the intersection.

SECTION 19.59. – PROPERTY LINE OFFSET – COMMERCIAL DRIVEWAYS.

All commercial driveways shall be so located that the flared portion thereof adjacent to the travelled way will not encroach on adjacent property. A minimum distance of five (5) feet shall be reserved between the driveway and the property line.

SECTION 19.60. – PROPERTY LINE OFFSET – NON-COMMERCIAL DRIVEWAYS.

All noncommercial driveways shall be so located that the flared portion thereof adjacent to a traveled way shall not encroach on adjacent property. A minimum distance of eighteen (18) inches shall be reserved between the driveway and the property line.

SECTION 19.61. –COMMERCIAL DRIVEWAY ENTRANCES AND EXITS.

For all commercial driveways, curbs, channelizing islands or posts shall be so constructed or placed as to define entrances and exits to the degree needed to prevent entire frontages from being used as driveways and thereby eliminating parking immediately adjacent to the travelled way and in front of business places. Between each

driveway, if there is more than one (1), there shall be a channelizing island between the property line and the street curb for a minimum length parallel with the street of eight (8) feet along the property line and such greater length along the curb.

SECTION 19.62. – ANGLE OF COMMERCIAL DRIVEWAYS.

The angle of commercial driveways shall not be less than forty-five (45) degrees with the edge of the street or roadway, except that on dual streets or roadways where there is a median strip, the entrance angle may be decreased to not less than thirty (30) degrees. Exit drives onto dual streets or roadways shall have an angle of not less than sixty (60) degrees with the edge of the street or roadway.

SECTION 19.63. – SLOPE OF COMMERCIAL DRIVEWAYS.

The grade of entrance and exit of commercial driveways shall slope away from the street or road surface at a rate of not less than one-fourth inch per foot and not more than one (1) inch per foot for the distance between the sidewalk and the street or roadway, unless the grade of the sidewalk requires a variance there from.

SECTIONS 19.64. – 19.70. – RESERVED.

ARTICLE 4. – CONTROL OF VEGETATION AT INTERSECTIONS.

SECTION 19.71. – DEFINITIONS.

For the purpose of this article, "street gutter flow line" means the street gutter flow line of the curb adjacent to and bordering upon each such restricted area. If there is no such curb, the height restrictions set forth in this article shall be based upon the actual level of the paved or used portion of the public street adjacent to and bordering upon each such restricted area.

SECTION 19.72. – ENFORCEMENT.

In addition to any penalty which may be imposed for the violation of this article, the Town shall have the power, subject to constitutional limitations, to enter upon and remove from the triangular corner areas described in this article any of the growths prohibited by this article. The Town shall not be liable to the owners of such property for such entry and removal.

SECTION 19.73. – RESTRICTED AREAS.

- a) The areas in the Town restricted by the provisions of this article are as follows:
 - 1) All of that portion of land lying within a triangular shaped area on each street corner within the Town described by metes and bounds as follows:

Beginning at the precise corner of intersection point of the curbs of each of the two (2) streets forming each corner and extending twenty (20) feet along each such curb line from the curb intersection point, the third side being determined by the drawing of a straight line from the ends of such twenty-foot extensions, whether the land is privately owned or unpaved or untraveled street right-of-way property.

- 2) Where no curbs are in existence at such street intersections, the twenty-foot lines shall coincide with the central flow line of the ditches paralleling such uncurbed streets as shall be determined by the Town.
- b) However, the provisions of this article shall apply only to those areas of the Town designated and classified by the Town's zoning ordinance requiring construction on lots in zoned sections to be set back from the property line of each such lot.

SECTION 19.74. – MAXIMUM HEIGHT OF GROWTH.

No person shall plant, grow or maintain in any restricted area described in this article any plant, hedge, shrub or other growth, except trees, at a height greater than three (3) feet from the street gutter flow line.

SECTION 19.75. – MINIMUM CLEARANCE OF TREES.

Any trees planted, grown and maintained in any restricted area described in this article shall not have branches or foliage extending from the trunk thereof at a height lower than ten (10) feet from the street gutter flow line.

SECTIONS 19.76. – 19.80 – RESERVED.

APPENDICES

- A. Complete List of Ordinance Found Adopted by the Town of Wagram
- B. Comparison Table Old to New Ordinances

APPENDIX A - Complete List of Ordinance Found Adopted by the Town of Wagram

Ordinance Number	Title	Date of Adoption
100	Authorizing Sandhills Telephone Company to Use Public Streets (NOT EXECUTED)	?
101	An Ordinance Regulating Dogs -Repealed	Original -1976
102	Establishing a Building Restriction Line on Main Street (U.S.15-A) in the Town of Wagram (NOT EXECUTED)	1954
103	Providing for Parallel Parking of Motor Vehicles on US Highway 15-A (Main Street)(NOT EXECUTED)	1954
104	An Ordinance Regulating Dogs - Repealed	Original - 1981
105	Regulating the Accumulation of Weeds, Grass, and Refuse	1984
106	Regulating the Keeping, Running, or Going at Large of Dogs within the Town	1987
107	Establishing the Town as a Bird Sanctuary	1970
108	Establishing License Tax Upon Certain Trades and Business Operations	1975
109	Designating Prefixes for Certain Streets within the Town.	1983
110	Regulating Outdoor Swimming Pools within the Town.	1983
111	Establishing a Property Numbering System for the Town.	1984
112	Establishing the Extra-Territorial Jurisdiction Boundaries of the Town	1985
112A	Extending Wagram's Corporate Limits (Annexation)	1990
113	Establishing a Fair Housing Ordinance	1986

Ordinance Number	Title	Date of Adoption
114	Exempting Cats from Wearing Rabies Vaccination Tags	1987
115	Regulating the Speed of Vehicles on Main Street	1988
116	Junk Car Ordinance - Repealed	1988
117	An Ordinance to Regulate the Parking of Vehicles on Main Street - Repealed	1988
118	Regulating Parades, Picket Lines, and Group Demonstrations	1989
119	Prescribing Procedures for Disposing of Personal Property Valued at Less Than \$500	1991
Unnumbered	Watershed Protection Ordinance	4-Nov-93
120	Regulating Begging, Solicitation Campaigns, Flea Markets and Itenerant Merchants	1996
121	Establishing Alcoholic Beverage Control Regulations for the Town	1996
122	Permitting the Posting of Signs Prohibiting the Carrying of Concealed Weapons on Certain Municipal Property	1996
123	Noise from Radios, Loud Speakers, Tape Players and Sound Amplifiers - Repealed and replaced by Ord. 125	1996
124	Regulating the Collection and Disposal of Garbage and Refuse	1996
124A	Amendment to Ordinance #124 to Correct Definitions	1997
124B	Amendment to Ordinance #124 to Explain Enforcement	1997
125	An Ordinance Regulating the Production and Emission of Noises or Amplified Speech, Music or Other Sounds	1997

Ordinance Number	Title	Date of Adoption
126	Granting a Garbage Collection Franchise to Wagram Paper Stock, Inc.	1997
Unnumbered	An Ordinance Providing for the Grant of a Franchise for the Construction, Operation, Maintenance and Regulation of a Cable Television System	2-Dec-99
127	Sewer Use Ordinance	27-Mar-00
128	Solid Waste Management Ordinance for Scotland County (Town adopted County Ordinance)	
Unnumbered	Procedures for Collecting Water Bills (NOT EXECUTED)	2002
Unnumbered	Riding in Town-Owned Vehicles	7-Nov-02
129	Water Bill Proceedings	
130	Unauthorized Filling of Special Use Tanks	
131	Traffic and Motor Vehicles (Vehicle Parking and Abandoned Vehicles)	
132	An Ordinance Granting a Garbage Collection Franchise to Wagram Paper Stock, Inc.	3-Jul-03
2008-01	Fats, Oils and Grease Ordinance	4-Sep-08
2009-02	An Ordinance Amending the Zoning Ordinance and Extra-Territorial Map of the Town of Wagram to Include in the R20 District That Property Known as Regan Street	5-Nov-09
2013-01	An Ordinance Granting a Garbage Collection Franchise to All Points Waste Service	3-Jan-13
2013-02	Yard Sale Ordinance	3-Jan-13
	Flood Damage Prevention Ordinance	6-Mar-14
2015-01	An Ordinance Regulating the Control of Chickens in the Town of Wagram	5-Mar-15

APPENDIX B - Ordinance Comparison Table

NEW ORDINANCE	CHAPTER/ARTICLE NUMBER	OLD ORDINANCES	SECTION NUMBER
USE OF THE CODE	Chapter 1	n/a	n/a
ADMINISTRATION	Chapter 2	1949 Code -Chapter A	Article 1
Town Commission	Article 2	1949 Code -Chapter A	Article 1
Code of Ethics	Article 3	n/a	n/a
Officers and Employees	Article 4	1949 Code -Chapter A	Article 2- Mayor; Article 3- Town Clerk
Town Fiscal Policies	Article 5	n/a	n/a
ADVERTISING	Chapter 3	n/a	n/a
Political Campaign Signs	Article 2	n/a	n/a
ANIMALS AND FOWL	Chapter 4	Ordinances 106, 114 and 2015-01	n/a
BUILDING REGULATIONS	Chapter 5	n/a	n/a
Abandoned Structures	Article 2	n/a	n/a
CABLE COMMUNICATIONS AND FRANCHISES	Chapter 6	Ordinance - 1999 : Granting Cable TV Franchise	none
CEMETERIES	Chapter 7	n/a	n/a
HEALTH AND SANITAION	Chapter 8	1949 Code - Chapter F	none
Mosquito Control	Article 2	n/a	n/a
Rodent Control	Article 3	n/a	n/a
Smoking in Public Places	Article 4	n/a	n/a
HOUSING	Chapter 9	n/a	n/a
Minimum Standards	Article1	n/a	n/a
Fair Housing	Article 2	Ordinance 113	1986
MOTOR VEHICLES AND TRAFFIC	Chapter 10	1949 Code - Chapter G	n/a
Operation of Vehicles	Article 2	1949 Code - Chapter G	n/a
Traffic Control Devices	Article 3	1949 Code - Chapter G	n/a
Speed Regulations	Article4	1949 Code - Chapter G	n/a
Pedestrians	Article 5	1949 Code - Chapter G	n/a
Bicycles	Article 6	n/a	n/a
Rairoads	Article 7	1949 Code - Chapter G	n/a
MUNICIPAL WATER AND SEWER	Chapter 11	1949 Code - Chapter H	n/a
Extension of Water/Sewer Outside of Town	Article 2	1949 Code - Chapter H	n/a

NEW ORDINANCE	CHAPTER/ARTICLE NUMBER	OLD ORDINANCES	SECTION NUMBER
Rates and Charges	Article 3	1949 Code - Chapter H	n/a
Billing and Payments	Article 4	1949 Code - Chapter H	n/a
Disconnection and Reconnection of Utility Service	Article 5	1949 Code - Chapter H	n/a
Irrigation Water Meters	Article 6	n/a	n/a
Right to Suspend Service	Article 7	n/a	n/a
Water Shortage Response Plan	Article 8	Plan	n/a
Sewer Use Ordinance	Article 9	Ordinance	n/a
Fats, Oils and Grease Ordinance	Article 10	ordinance	n/a
PRIVILEGE LICENSE TAX; OTHER TAXES	Chapter 12	n/a	n/a
Occupational License Tax (Repealed by State)	Article 1	n/a	n/a
Ad Valorem Tax	Article 2	n/a	n/a
OFFENSES, NUISANCES, AND MISCELLANEOUS PROVISIONS	Chapter 13	1949 Code - Chapters E and F	n/a
Offenses	Article 1	1949 Code - Chapter E	n/a
Nuisances	Article 2	1949 Code - Chapter F	n/a
Miscellaneous Provisions - Abandoned and Junked Vehicles	Article 3	Ordinance 116- Repealed	n/a
Miscellaneous Provisions - Vegetation, Weeds, and Refuse	Article 4	1949 Code - Chapter F	n/a
Miscellaneous Provisions - Graffiti	Article 5	n/a	n/a
Miscellaneous Provisions - Malt Beverages and Fortified Wine	Article 6	Ordinance #121 in 1996	N/A
Miscellaneous Provisions - Special Events, Permits	Article 7		
Supplemental Regulations	Article 8	n/a	n/a

NEW ORDINANCE	CHAPTER/ARTICLE NUMBER	OLD ORDINANCES	SECTION NUMBER
Miscellaneous Provisions - Posting Signs Prohibiting the Carrying of Concealed Weapons	Article 9	Ordinance #122 in 1996	n/a
PARKS AND RECREATION	Chapter 14	n/a	n/a
PLANNING AND ZONING	Chapter 15		
Official Zoning Map and Zoning Districts	Article 2	Article 1	Section 1.2
Application and Enforcement	Article 3	Article IX and Article X	Sections 9.1 through 10.5
Nonconforming Uses	Article 4	Article VII	Sections 7.1 through 7.6
General Provisions	Article 5		
District Regulations	Article 6	Article IV	Sections 4.1 through 4.6
Off-Street Parking and Loading	Article 7	Article V	
Manufactured Home Parks	Article 8	n/a	n/a
Signs	Article 9	n/a	n/a
Wireless Communication Facility Development	Article 10	n/a	n/a
Conditional Uses	Article 11	Article VI	
Solar Energy Facility	Article 12	n/a	n/a
Board of Adjustment	Article 13		
Changes and Amendments	Article 14	Article VIII	Sections 8.1 through 8.8
Watershed Protection Overlay District	Article 15		
Definitions	Article 16	Article III	Section 3.11
PUBLIC RECORDS	Chapter 16	n/a	n/a
PUBLIC SAFETY	Chapter 17	Ordinances 103, 115 and 117	n/a
Police Protection	Article 1	1949 Code -Chapter D	n/a
Fire Protection	Article 2	1949 Code -Chapter C	n/a

NEW ORDINANCE	CHAPTER/ARTICLE NUMBER	OLD ORDINANCES	SECTION NUMBER
Civil Emergencies	Article 3	n/a	n/a
PUBLIC WORKS	Chapter 18		n/a
Solid Waste Collection	Article 1	Ordinance #1 in 2013 Granting a Franchise	n/a
STREETS AND SIDEWALKS	Chapter 19	1949 Code -Chapter I	n/a
Local Improvements	Article 2	n/a	n/a
Driveways	Article 3	n/a	n/a
Control of Vegetation at Intersections	Article 3	n/a	n/a

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