

# TOWN OF CAPE CARTERET, NORTH CAROLINA CODE OF ORDINANCES

2016 S-3 Supplement contains:  
Local legislation current through Ord. 2016-03-01, passed 3-21-16  
State Legislation current through 2016 Ex. Sess.

Local legislation after March 22, 2016 has been incorporated to the Code by  
Town Clerk, Heather Leffingwell as of February 13, 2023.

## TOWN OFFICIALS

### BOARD OF COMMISSIONERS

MAYOR	Will Baker
COMMISSIONER	Donald Miller
COMMISSIONER	Steve Martin
COMMISSIONER	Charlie Morgan
MAYOR PRO TEM	Jeff Waters
COMMISSIONER	Cameron Watts

### TOWN OFFICIALS

TOWN ATTORNEY	Brett DeSelms
TOWN CLERK	Heather Leffingwell
TOWN MANAGER	Frank Rush

## CHARTER

### Section

- Sec. 1. Incorporation and corporate powers.
- Sec. 2. Enumerated powers not exclusive.
- Sec. 3. Corporate limits.
- Sec. 4. Creation, salary and composition of Mayor and Board of Commissioners.
- Sec. 5. Meetings of the Board of Commissioners.
- Sec. 6. Mayor and Mayor Pro Tem.
- Sec. 7. Board of Commissioners' rules.
- Sec. 8. Quorum.
- Sec. 9. Introduction and passage of ordinance and resolutions.
- Sec. 10. Authentication and publication of ordinances and resolutions.

## Cape Carteret, NC Code of Ordinances

- Sec. 11. Municipal elections.
- Sec. 12. Regulations of elections.
- Sec. 13. Nominations.
- Sec. 14. Election of Mayor and Board of Commissioners.
- Sec. 15. Appointment of officers and employees.
- Sec. 16. Custody of town money.
- Sec. 17. Issuance of bonds.
- Sec. 18. Purchase procedure.
- Sec. 19. Contracts for town improvements.
- Sec. 20. Independent audit.
- Sec. 21. Publicity of records.
- Sec. 22. Personal interest.
- Sec. 23. Oath of office.
- Sec. 24. Saving clause.

### ***Editor's note:***

*Printed herein is the Charter of the Town of Cape Carteret being Session Laws 1959, chapter 727, as adopted by the General Assembly on June 3, 1959, and effective on the same date. Amendments to the original Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catch lines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.*

## **SEC. 1. INCORPORATION AND CORPORATE POWERS.**

(A) The inhabitants of the Town of Cape Carteret in Carteret County, North Carolina, within the boundaries as established in section 3 of this Charter or as hereafter established in the manner provided by law, shall be a body politic and corporate by name the Town of Cape Carteret and under that name shall have perpetual succession; may use a corporate seal; may sue and be sued; may acquire property within or without its boundaries for any municipal purpose, in fee simple or lesser interest or estate, by purchase, gift, devise, lease or condemnation and may sell, lease, hold, manage and control such property as its interests may require; and, except as prohibited by the Constitution of North Carolina or restricted by this Charter, the Town of Cape Carteret shall have and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The following shall be deemed to be a part of the powers conferred upon the Town of Cape Carteret by this section:

(1) To levy, assess and collect taxes and to borrow money within the limits prescribed by general law; and to levy and collect special assessments for benefits conferred.

(2) To furnish all local public services; to purchase, hire, construct, own, maintain and operate or lease local public utilities; to acquire, by condemnation or otherwise, within or without the corporate limits, property necessary for any such purposes, subject to restrictions imposed by general law for the protection of other communities; and to grant local public utility franchises and regulate the exercise thereof.

(3) To make local public improvements and to acquire, by condemnation, or otherwise, property within or without its corporate limits necessary for such improvements; and

also to acquire an excess over that needed for any such improvement, and to sell or lease such excess property with restrictions, in order to protect and preserve the improvement.

(4) To issue and sell bonds on the security of any such excess property, or of any public utility owned by the town, or of the revenue thereof, or of both, including the case of a public utility, if deemed desirable by the town, a franchise stating the terms upon which, in case of foreclosure, the purchaser may operate such utility.

(5) To adopt and enforce within its limits local police, sanitary and other similar regulations not in conflict with general laws.

(B) Except as otherwise provided in this act the Board of Commissioners shall have authority to determine by whom and in what manner the powers granted by this section shall be exercised.

## **SEC. 2. ENUMERATED POWERS NOT EXCLUSIVE.**

The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the Town of Cape Carteret shall have, and may exercise, all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate. All powers of the town, whether expressed or implied, shall be exercised in the manner prescribed by this Charter, or, if not prescribed therein, then in the manner provided by ordinance or resolution of the Board of Commissioners.

## **SEC. 3. CORPORATE LIMITS.**

The corporate limits of the town shall be as follows:

Located in White Oak Township, Carteret County, State of North Carolina, and beginning at the intersection of the northern shore line of Bogie Sound and the eastern right of way of N.C. 58 as established by N.C. Highway Commission Project 6.1610019 as recorded on pages 19 and 20 in the Carteret County Volume of the Commission's Right of Way Plans Book and running thence from the beginning in a northerly direction along and with the said established right of way approximately 3,550 feet to its intersection with the northern right of way of N.C. Highway 24; thence continuing in a northerly direction along and with the said established right of way approximately 2,150 feet to its intersection with the city limit line as shown on page 19 of the said Right of Way Plans Book; thence north 42 degrees 04 minutes east with a line shown on a map entitled *Area Annexed to Town of Cape Carteret* prepared by R.T. Burney & Associates and recorded in Map Book 8, page 7, said map being hereinafter referred to as Burney's Map, for a distance of approximately 50 feet to a corner of the Sugae Moore O'Brien property; thence with the following lines as shown on Burney's Map: north 83 degrees 03 minutes east along and with the O'Brien line 3,292.82 to Rocky Run; up Rocky Run in a northwesterly direction approximately 1,850 feet to a corner of Lionel Pelletier's property; north 55 degrees 53 minutes east along and with Pelletier's line 703 feet to the westerly edge of S.R. 1259 (Old N.C. Highway 58); along and with said edge in a northerly direction 1,116.45 feet to the extended centerline of S.R. 1259; north 22 degrees 47 minutes west along and with the extended centerline 1,368 feet to the extended southern property line of C. Rose; north 88

degrees 11 minutes east and with Rose's southern property line 278.5 feet; north 22 degrees 47 minutes west along and with Rose's eastern property line 238 feet; south 88 degrees 11 minutes west with Rose's northern property line 228.5 feet to the eastern right of way of S.R. 1259; north 22 degrees 47 minutes west along and with said eastern right of way 439.7 feet to Raskett's property; north 86 degrees 17 minutes east along and with Raskett's line 42 feet; north 35 degrees 30 minutes east along and with Raskett's line 570 feet to Machine Branch; down Machine Branch, with its various courses, in a northerly direction approximately 1,450 feet to Pettiford Creek; up Pettiford Creek, with its various courses, in an easterly direction approximately 8,000 feet to a concrete monument marking a corner of the F.F. Guthrie Property; south 17 degrees 53 minutes east along and with the Guthrie boundary 1,261.83 feet; south 54 degrees 30 minutes east along and with the Guthrie line 1,804 feet to the northwestern corner of Quail Wood Acres Subdivision, Section "A," as recorded in Map Book 15, page 55; thence south 4 degrees 30 minutes west along and with the western boundary of Quail Wood Acres 1,662.74 feet to a corner in Cat Pond Branch, said corner being the northeastern corner of Fox Forest Subdivision, Section "B," as recorded in Map Book 11, page 19; thence in a northwesterly direction along and with the boundary of said Section "B" north 42 degrees 20 minutes west 733 feet as shown on Burney's Map, to a corner in Cat Pond Branch; thence in a southwesterly direction along and with the boundary of said Section "B," south 55 degrees 40 minutes west 1,040 feet, as shown on Burney's Map, to the northeastern corner of Fox Forest Subdivision, Section "A," as recorded in Map Book 9, page 53; thence in a southwesterly direction along and with the western boundary of said Section "A," south 25 degrees 20 minutes west 705 feet as shown on Burney's Map, to a concrete monument marking Carl Weeks' northwestern corner; thence along and with Weeks' line as shown on Burney's Map south 7 degrees 05 minutes east 859.7 feet to a concrete monument; thence along and with the Weeks' line as shown on Burney's Map north 83 degrees 41 minutes east 322.25 feet to a concrete monument marking the common corner of Weeks and Eula Dennis; thence along and with Eula Dennis' line as shown on Burney's Map south 11 degrees 28 minutes west 381.95 feet; thence along and with Dennis' line as shown on Burney's Map south 17 degrees 17 minutes west 63 feet to the northern right of way of N.C. Highway 24; thence along and with the said northern right of way in an easterly direction approximately 1,185 feet to the northern end of a line running normal to the said northern right of way and passing through Eula Dennis' corner lying in the southern right of way of N.C. Highway 24; thence in a southern direction along and with said line running normal to said northern right of way 100 feet to Eula Dennis' corner lying in said southern right of way; thence along and with the Eula Dennis Boundary as shown on Burney's Map the following courses and distances; south 3 degrees 41 minutes west 397 feet; south 72 degrees 46 minutes west 250 feet; south 1 degree 26 minutes west 1,389 feet; south 88 degrees 34 minutes east 436 feet; south 8 degrees 10 minutes west 230.55 feet to the northwestern corner of the Hunting Bay, Inc. Subdivision, Section One, as recorded in Map Book 14, page 88, thence with the boundary of the said Section One as recorded the following courses and distances: south 8 degrees 46 minutes west 459.35 feet; south 19 degrees 37 minutes 30 seconds west 1,213.72 feet; south 39 degrees 28 minutes 20 seconds west 409.1 feet to the northern shore line of Bogie Sound; thence along Bogie Sound in a westerly direction, with names of all topographic features being as shown on Edition 15, dated January 28, 1978 of the Intracoastal Waterway Nautical Chart 11541 as published by the U.S. Department of Commerce, the following lines: in a westerly direction along and with the northern shore Line of Bogie Sound approximately 1,300 feet to its intersection with the eastern shore line of Deer Creek at the mouth of Deer Creek, a straight line

in a westerly direction across the mouth of Deer Creek and Hunting Island approximately 2,000 feet to the northern shore line of Bogie Sound at Ennett Point; in a westerly direction along and with the northern shore line of Bogie Sound approximately 3,700 feet to the beginning excepting however, from within the corporate limits all or any part of Hunting Island.

Carteret County Register of Deeds Office is the repository for all records herein referenced.

(S.L. 1979, ch. 399, § 3)

***Editor's note:***

*The corporate limits have changed by subsequent annexations of the town. See Table I of the Table of Special Ordinances.*

#### **SEC. 4. CREATION, SALARY AND COMPOSITION OF MAYOR AND BOARD OF COMMISSIONERS.**

Except as otherwise provided in this Charter all powers of the town shall be vested in a Board of Commissioners of five (5) members and a Mayor nominated and elected from the town at large in the manner hereinafter provided. The term of office of the Mayor and the Board of Commissioners shall be for four (4) years and until their successors are elected and qualified, and the Mayor and Board of Commissioners shall take office at the end of the business session of the first regularly scheduled meeting of the Board of Commissioners following the election. If a vacancy occurs in the office of Mayor or commissioner, it shall be filled for the remainder of the unexpired term by a majority vote of the remaining members of the Board of Commissioners. The Mayor and members of the Board of Commissioners shall be qualified electors of the town. A member of the Board of Commissioners or the Mayor ceasing to possess any of the qualifications specified in this section, or convicted of crime while in office, shall immediately forfeit his office.

Provided however, that Howard C. Cobb is hereby appointed and named as Mayor and D.E. Hill, Loyd C. Johnson and Clyde Fulcher are hereby appointed and named as commissioners to serve as the first Mayor and Board of Commissioners of the Town of Cape Carteret. At the regular municipal election in 1969, and biennially thereafter, all members of the Board of Commissioners shall be elected at large by the qualified voters of the town.

(S.L. 1969, ch. 283, §§ 1, 2)

***Cross-reference:***

*Staggered terms for Board members, see § 38.01*

***Editor's note:***

*G.S. § 160A-63 now provides a more detailed procedure to be followed when filling a vacancy in any elective office of a city, including that of Mayor and of commissioner.*

#### **SEC. 5. MEETINGS OF THE BOARD OF COMMISSIONERS.**

At noon on the day following a regular municipal election the incumbent Board of Commissioners shall meet and the newly elected members and newly elected Mayor shall assume the duties of their offices at the end of the business session of such meeting. Thereafter the Board of Commissioners shall meet at such times as may be prescribed by ordinance or

resolution. Special meetings may be called upon the written request of the Mayor or two (2) members of the Board of Commissioners. All meetings of the Board of Commissioners shall be open to the public, and the rules of the Board of Commissioners shall provide that citizens of the town shall have a reasonable opportunity to be heard at any such meetings in regard to any matter considered thereat.

(S.L. 1969, ch. 283, § 3)

***Editor's note:***

*G.S. § 160A-68 now provides that the organizational meeting of the board is to be held not later than the date and time of the first regular meeting of the board in December after the results of the municipal election have been certified.*

*G.S. § 160A-71 now requires regular meetings to be held at least once a month.*

*G.S. § 160A-71(b) now imposes additional requirements for calling special meetings.*

## **SEC. 6. MAYOR AND MAYOR PRO TEM.**

At its first meeting following a regular municipal election the Board of Commissioners shall choose one of its members as Mayor Pro Tem. The Mayor shall preside at meetings of the Board of Commissioners and shall exercise such other powers and perform such other duties as are or may be conferred and imposed upon him by the general laws of North Carolina; by this Charter and the ordinances of the town. He shall be recognized as the head of the town government for all ceremonial purposes; by the courts for serving civil processes; and by the governor for purposes of military law. In time of public danger or emergency the Mayor shall, if so authorized and directed by vote of the Board of Commissioners, take command of the police, maintain order and enforce the law. In case of the absence or disability of the Mayor, the Mayor Pro Tem shall act as Mayor during the continuance of the absence or disability.

***Statutory reference:***

*Mayor Pro Tempore, disability of Mayor, see G.S. § 160A-70*

## **SEC. 7. BOARD OF COMMISSIONERS' RULES.**

The Board of Commissioners shall be the judge of the election and qualifications of its members and the Mayor, and in such cases shall have power to subpoena witnesses and compel the production of all pertinent books, records, and papers; but the decision of the Board of Commissioners in any such case shall be subject to review by the courts. The Board of Commissioners shall determine its own rules and order of business and keep a journal of its proceedings.

***Statutory reference:***

*Council to adopt own rules of procedure, see G.S. § 160A-71(c)*

## **SEC. 8. QUORUM.**

A majority of the members elected to the Board of Commissioners shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the

attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a majority of the members elected to the Board of Commissioners shall be necessary to adopt any ordinances, resolutions, order or vote; except that a vote to adjourn, or regarding the attendance of absent members, may be adopted by a majority of the members present. No member shall be excused from voting except on matters involving the consideration of his own official conduct or when his financial interests are involved.

***Editor's note:***

*G.S. § 160A-74 now provides that the majority of the actual membership of the legislative body plus the Mayor, but excluding vacant seats, shall constitute a quorum.*

*G.S. § 160A-75 now provides that an affirmative vote equal to a majority of all the members of the legislative body not excused from voting from the question in issue (including the Mayor's vote in case of an equal division) shall be required to adopt an ordinance.*

**SEC. 9. INTRODUCTION AND PASSAGE OF ORDINANCE AND RESOLUTIONS.**

All ordinances, except ordinances making appropriations and ordinances codifying or rearranging existing ordinances or enacting a code of ordinances, shall be confined to one subject, and the subject, or subjects of all ordinances shall be clearly expressed in the title. Ordinances making appropriations shall be confined to the subject of appropriations. The yeas and nays shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the Board of Commissioners. Except as otherwise prescribed in this Charter or by general law, all ordinances and resolutions passed by the Board of Commissioners shall take effect at the time indicated therein. No measure making or amending a grant, renewal or extension of a franchise or other special privilege shall ever be passed as an emergency measure.

**SEC. 10. AUTHENTICATION AND PUBLICATION OF ORDINANCES AND RESOLUTIONS.**

Upon its final passage each ordinance or resolution shall be authenticated by the signature of the Mayor and the Town Clerk and shall be recorded in a book kept for that purpose. Within 10 days after final passage, a notice setting forth in brief the substance of each ordinance shall be published or posted at least once in such manner as the Board of Commissioners may prescribe.

**SEC. 11. MUNICIPAL ELECTIONS.**

The regular election for the choice of Mayor and members of the Board of Commissioners shall be held on Tuesday following the first Monday in May in the year 1961 and biennially thereafter. The Board of Commissioners may by resolution order a special election; fix the time for holding the same; and provide all means for holding such special election.  
(S.L. 1961, ch. 375)

**Editor's note:**

*G.S. Ch. 163 now requires municipal elections to be held in November of odd-numbered years. Charter provisions to the contrary are superseded.*

**SEC. 12. REGULATIONS OF ELECTIONS.**

All elections shall be conducted in accordance with the general state laws relating to municipal elections, except as otherwise provided herein.

**SEC. 13. NOMINATIONS.**

Any qualified elector of the Town of Cape Carteret may file as a candidate for Mayor or commissioner by formal notice of candidacy in substantially the following form:

“I, \_\_\_\_\_, hereby give notice that I am a candidate for election to the office of \_\_\_\_\_, to be voted on at the election to be held on \_\_\_\_\_ and I hereby request that my name be printed on the official ballot for such office, I also certify that I am a resident and qualified elector of the Town of Cape Carteret, residing at \_\_\_\_\_ in said town.

\_\_\_\_\_  
Candidate

\_\_\_\_\_  
Date

Witness:

\_\_\_\_\_”

The notice of candidacy prescribed above must be filed with the Town Clerk not earlier than 60 days nor later than 10 days before the date of election. The Town Clerk shall preserve all such notices until expiration of the term of the office for which the candidate filed. Any candidate may withdraw his notice of candidacy not later than the last day for filing by submitting written notice of withdrawal with the Town Clerk.

**Editor's note:**

*G.S. Ch. 163 now prescribes the form for notice of candidacy and with whom it must be filed, superseding municipal charters.*

**SEC. 14. ELECTION OF MAYOR AND BOARD OF COMMISSIONERS.**

All members of the Board of Commissioners shall be elected at large. Every voter shall be entitled to vote for one (1) candidate for Mayor and for five (5) candidates for the Board of Commissioners. The five (5) candidates who receive the largest number of votes for commissioner shall be declared elected. The candidate who receives the largest number of votes for Mayor shall be declared elected.

(S.L. 1969, ch. 283, § 4)

**SEC. 15. APPOINTMENT OF OFFICERS AND EMPLOYEES.**

The Board of Commissioners may appoint a Town Clerk, a Treasurer, a Tax Collector, an Accountant, a Town Attorney, a Chief of Police, a Fire Chief, and such other officers and employees as may be necessary, none of whom need be a resident of the town at the time of appointment; provided, that the Board of Commissioners may appoint one (1) person to fill any two (2) or more such positions. Such employees or officers shall serve at the pleasure of the Board of Commissioners, and shall perform such duties as may be prescribed by the Board of Commissioners. The Board of Commissioners shall fix all salaries, prescribe bonds and require such oaths as they may deem necessary.

**SEC. 16. CUSTODY OF TOWN MONEY.**

All moneys received by the town for or in connection with the business of the town government shall be paid promptly into the town depository. Such institution shall be designated by the Board of Commissioners in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance. All interest on moneys belonging to the town shall accrue to the benefit of the town government. All moneys belonging to the town government shall be disbursed only on vouchers signed by the Mayor and countersigned by the Treasurer or other official designated by the Board of Commissioners.

***Editor's note:***

*G.S. § 159-28(b) through (e) now prescribes more detailed procedures for municipal disbursement, superseding municipal charters.*

**SEC. 17. ISSUANCE OF BONDS.**

The town may issue bonds for the purpose and in the manner prescribed by the general laws of North Carolina for the issuance of bonds by municipalities.

**SEC. 18. PURCHASE PROCEDURE.**

Before making any purchase for supplies, materials, equipment, opportunity shall be given for competition, under such rules and regulations, and with such exceptions, as the Board of Commissioners may prescribe by ordinance. All expenditures for supplies, materials, equipment, involving more than \$2,000.00 shall be made on a written contract, and such contract shall be awarded to the lowest responsible bidder after such public notice and competition as is required by law in North Carolina.

***Cross-reference:***

*Competitive bidding procedures, see § 38.02*

**SEC. 19. CONTRACTS FOR TOWN IMPROVEMENTS.**

Any town improvement costing more than \$3,500.00 shall be executed by contract except where such improvement is authorized by the Board of Commissioners to be executed directly by a town department in conformity with detailed plans, specifications and estimates. All such contracts for more than \$3,500.00 shall be awarded to the lowest responsible bidder after such public notice and competition as may be prescribed by law in North Carolina; provided the Board of Commissioners shall have the power to reject all bids and advertise again. Alterations in any contract may be made when authorized by the Board of Commissioners.

***Editor's note:***

*The monetary limits established in sections 18 and 19 are lower than the limits contained in the state purchasing statute, G.S. § 143-131 (\$5,000.00 or more, but less than the limits prescribed in G.S. § 143-129).*

**SEC. 20. INDEPENDENT AUDIT.**

As soon as practicable after the close of each fiscal year, an independent audit shall be made of all accounts of the town government by qualified public accountants, selected by the Board of Commissioners, who have no personal interest directly or indirectly in the financial affairs of the town government or of any of its officers. The results of this audit shall be available to any interested citizen and may be published if so ordered by the Board of Commissioners.

***Editor's note:***

*G.S. § 159-34 now prescribes more detailed procedures for municipal audits.*

**SEC. 21 PUBLICITY OF RECORDS.**

All records and accounts of the town shall be open to inspection by any citizen or by any representative of the press at all reasonable times and under reasonable regulations established by the Board of Commissioners.

***Statutory reference:***

*Public records, G.S. Ch. 132*

**SEC. 22. PERSONAL INTEREST.**

Neither the Mayor nor any member of the Board of Commissioners nor any officer or employee of the town shall have a financial interest, direct or indirect, in any contract with the town, or be financially interested, directly or indirectly, in the sale to the town of any land, materials, supplies or services, except on behalf of the town as an officer or employee. Any wilful violation of this section shall constitute malfeasance in office; and any officer or employee of the town found guilty thereof shall thereby forfeit his office or position. Any violation of this section, with the knowledge express or implied of the person or corporation contracting with the town shall render the contract voidable by the Board of Commissioners.

**SEC. 23. OATH OF OFFICE.**

Every officer of the town shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the Town Clerk.

“I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of North Carolina; that I will, in all respects, observe the provisions of the Charter and ordinances of the Town of Cape Carteret and will faithfully discharge the duties of the office of \_\_\_\_.”

***Statutory reference:***

*Oath of office required, G.S. § 160A-68*

**SEC. 24. SAVING CLAUSE.**

If any part of this Charter shall be declared invalid by a court of competent jurisdiction, such judgment shall not invalidate the remainder of the Charter. The provisions of this Charter shall supersede all laws and ordinances not consistent herewith, insofar as the Town of Cape Carteret is affected thereby.

## TITLE I: GENERAL PROVISIONS

Chapter

**10. GENERAL PROVISIONS**

### CHAPTER 10: GENERAL PROVISIONS

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Section

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- 10.17 Ordinances which amend code; effect of new ordinances
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### **§ 10.01 TITLE OF CODE.**

This codification of ordinances by and for the Town of Cape Carteret shall be designated as the *Code of Cape Carteret, North Carolina* and may be so cited.

### **§ 10.02 INTERPRETATION.**

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.

### **§ 10.03 APPLICATION TO FUTURE ORDINANCES.**

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

### **§ 10.04 CAPTIONS.**

Headings and captions used in this code other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

### **§ 10.05 DEFINITIONS.**

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BOARD OF COMMISSIONERS.** The Mayor and Commissioners, or governing body, of the Town of Cape Carteret, North Carolina.

**CHARTER.** The Charter of the Town of Cape Carteret, North Carolina.

**CODE, THIS CODE or THIS CODE OF ORDINANCES.** This municipal code as modified by amendment, revision and adoption of new titles, chapters or sections.

**COMPUTATION OF TIME.** The time within which an act is to be done shall be computed by excluding the first and the last day; and if the last day is Saturday, Sunday, or a legal holiday, that day shall be excluded.

**COUNTY.** The County of Carteret, North Carolina.

**G.S. or GENERAL STATUTES.** The latest edition of the **GENERAL STATUTES** of North Carolina, as amended.

**GENDER.** Words importing the masculine gender shall include the feminine and neuter.

**GOVERNOR.** The Governor of North Carolina.

**JOINT AUTHORITY.** All words giving a joint authority to 3 or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

**MAY.** The act referred to is permissive.

**MONTH.** A calendar month.

**NUMBER.** Words used in the singular include the plural, and the plural includes the singular number.

**OATH.** An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**.

**OFFICER, OFFICE, EMPLOYEE, COMMISSION or DEPARTMENT.** An officer, office, employee, commission or department of this municipality unless the context clearly requires otherwise.

**OFFICIAL TIME STANDARD.** Whenever certain hours are named in this code, they shall mean standard time or daylight saving time as may be in current use in this town.

**OWNER.** Applied to any property, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such property.

**PERSON.** Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

**PERSONAL PROPERTY.** Every species of property except real property.

**PRECEDING or FOLLOWING.** Next before or next after, respectively.

**PROPERTY.** Includes real and personal property.

**REAL PROPERTY.** Includes lands, tenements and hereditaments.

**SHALL.** The act referred to is mandatory.

**SIDEWALK.** Any portion of a street between the curblineline and the adjacent property line intended for the use of pedestrians.

**SIGNATURE or SUBSCRIPTION.** Includes a mark when the person cannot write.

**STATE.** The State of North Carolina.

**STREET.** Any public way, road, highway, street, avenue, boulevard, parkway, dedicated alley, lane, viaduct, bridge and the approaches thereto within the town and shall mean the entire width of the right-of-way between abutting property lines.

**SUBCHAPTER.** A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

**TENANT** or **OCCUPANT**. When applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

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

**TOWN**. The Town of Cape Carteret, in the County of Carteret, North Carolina.

**WRITTEN**. Any representation of words, letters or figures, whether by printing or otherwise.

**YEAR**. A calendar year, unless otherwise expressed.

**ZONING ENFORCEMENT OFFICER**. One designated by the Board of Commissioners.

**Statutory reference:**

*Computation of time, see G.S. § 1-593*

## **§ 10.06 RULES OF INTERPRETATION.**

The construction of all ordinances of this town shall be by the following rules, unless such construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

(A) **AND or OR**. Either conjunction shall include the other as if written “and/or,” if the sense requires it.

(B) *Acts by assistants*. When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.

(C) *Gender; singular and plural; tenses*. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) *General term*. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

## **§ 10.07 SEVERABILITY.**

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

## **§ 10.08 REFERENCE TO OTHER SECTIONS.**

Whenever in 1 section reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

**§ 10.09 REFERENCE TO OFFICES.**

Reference to a public office or officer shall be deemed to apply to any office, officer or employee of this town exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

**§ 10.10 ERRORS AND OMISSIONS.**

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

**§ 10.11 OFFICIAL TIME.**

The official time, as established by applicable state and federal laws, shall be the official time within this town for the transaction of all municipal business.

**§ 10.12 REASONABLE TIME; COMPUTING TIME.**

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of such act or the giving of such notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

**§ 10.13 ORDINANCES REPEALED.**

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

**§ 10.14 ORDINANCES UNAFFECTED.**

## Cape Carteret, NC Code of Ordinances

(A) All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

(B) 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, and the like, 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 therefor,

(10) Any zoning ordinance or zoning map amendment;

(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 herein;

(15) Any ordinance establishing or prescribing street grades in the town; and/or

(16) Any personnel ordinance.

(C) Nor shall any 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 herein.

(Prior Code, § 1-9)

***Statutory reference:***

*Statutes not repealed by General Statutes, see G.S. § 164-7*

### **§ 10.15 EFFECTIVE DATE OF ORDINANCES.**

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

### **§ 10.16 REPEAL OR MODIFICATION OF ORDINANCES.**

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture or penalty instituted, created, given, secured or accrued under any ordinance previous to its repeal shall in any way be affected, released or discharged, but may be prosecuted, enjoyed and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause or provision, unless it is expressly provided.

#### **§ 10.17 ORDINANCES WHICH AMEND CODE; EFFECT OF NEW ORDINANCES.**

(A) All ordinances passed subsequent to this code which amend, repeal or in any way affect this code may be numbered in accordance with the numbering system hereof and printed for inclusion herein. When subsequent ordinances repeal any chapter, section or subsection, or any portion thereof, such repealed portions may be excluded from this code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence that the subsequent ordinances numbered or omitted are readopted as a new code by the town.

(B) Amendments to any of the provisions of the code shall be made by amending such provisions by specific reference to the section number of this code in language substantially similar to the following: "Section \_\_\_\_\_ of the Code of Ordinances, Town of Cape Carteret, North Carolina, is hereby amended as follows...." The new provisions shall then be set out in full as desired.

(C) If a new section not heretofore existing in the code is to be added, language substantially similar to the following shall be used: "The Code of Ordinances, Town of Cape Carteret, North Carolina, is hereby amended by adding a section, to be numbered \_\_\_\_\_, which section shall read as follows:...." The new section shall then be set out in full as desired.

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

#### **§ 10.18 SUPPLEMENTATION OF CODE.**

(A) By contract or by town personnel, supplements to this code shall be prepared on an annual basis. A supplement to the code shall include all substantive, permanent and general parts of ordinances passed by the 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, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;  
(2) Provide appropriate headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such 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,” and the like, 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.

(1997 Code § 1-8)

## **§ 10.19 SECTION HISTORIES; SECTION HEADINGS; STATUTORY REFERENCES.**

(A) As histories for the code sections, the specific number and passage date of the original ordinance and the most recent three amending ordinances, if any, are listed following the text of the code section. *Example:* (Ord. 10, passed 5-13-1960; Am. Ord. 15, passed 1-1-1970; Am. Ord. 20, passed 1-1-1980; Am. Ord. 25, passed 1-1-1985)

(B) (1) A statutory cite included in the history indicates that the text of the section reads substantially the same as the statute. *Example:* (G.S. § 160A-11) (Ord. 10, passed 1-17-1980; Am. Ord. 20, passed 1-1-1985)

(2) A statutory cite set forth as a “statutory reference” following the text of the section indicates that the reader should refer to that statute for further information.

*Example:*

### **§ 39.01 PUBLIC RECORDS AVAILABLE.**

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

#### ***Statutory reference:***

*Inspection of public records, see G.S. §§ 132-1 et seq.*

(C) If a section of this code is derived from the 1997 code of ordinances of the town, the prior code section number shall be indicated in the history by “(1997 Code, § \_\_\_\_).” The history notes following sections and the references scattered throughout the code are not part of the code, but are merely for the benefit for the user of the code.

**§ 10.99 GENERAL PENALTY.**

(A) Unless otherwise specifically provided, violation of any provision of this code or any other town ordinance shall subject the offender to the remedies hereinafter provided; except that where the General Statutes of North Carolina provide specific civil remedies for violations of provisions of this code adopted pursuant to such statutes, such remedies available to the town for enforcement of this code shall be in addition to the remedies hereinafter stated; provided, that no criminal penalties shall be applicable unless hereinafter stated in this section as being applicable to specific chapters or provisions of this code.

(B) Violations of any of the provisions of this code shall subject the offender to a civil penalty upon the issuance of a citation for such violation as hereinafter provided. The civil penalty, if not paid to the Town Treasurer within 15 days of the issuance of a citation, may be recovered by the town in a civil action in the nature of debt. Unless otherwise provided by a specific provision of this code, such civil penalties shall be in the amount of \$50 for each violation, and each day any single violation continues shall be a separate violation; except, that for violations of parking ordinances of this code, the civil penalty provisions and procedures therein shall apply.

(C) In addition to any civil penalties set out in this section, any provision of this code or any other town ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the town for equitable relief that there is an adequate remedy at law.

(D) In addition to any civil penalties set out in this section, any provision of this code or any other town ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement, and the general court of justice shall have jurisdiction to issue such orders. When a violation of such a provision occurs, the town may apply to the appropriate division of the general court of justice 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. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

(E) (1) In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that:

- (a) Buildings or other structures on the property be closed, demolished or removed;
- (b) Fixtures, furniture or other movable property be removed from buildings on the property;
- (c) Grass and weeds be cut;
- (d) Improvements or repairs be made; or
- (e) Any other action be taken that is necessary to bring the property into compliance with this code or such ordinance.

(2) 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 or she 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 in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the

proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(F) The provisions of this code and any other town ordinances may be enforced by 1, all or a combination of the remedies authorized and prescribed by this section; except, that any provision the violation of which incurs a civil penalty shall not be enforced by criminal penalties.

(G) Except as otherwise specifically provided, each day's continuing violation of any provision of this code or any other town ordinance shall be a separate and distinct offense.

(H) Any ordinances hereafter adopted by the Board of Commissioners of the town, the violation of which shall incur a penalty, shall specify whether the enforcement shall be pursuant to the civil penalty provisions of this section.

(I) Upon determination of a violation of any section of this code, the penalty for which is a civil penalty, the town shall cause a warning citation to be issued to the violator, setting out the nature of the violation, the section violated, the date of the violation and an order to immediately cease the violation or, if the violation is in the nature of an infraction for which an order of abatement would be appropriate in a civil proceeding, stating a reasonable period of time in which the violation must be abated. The warning citation shall specify that a second citation shall incur a civil penalty.

(J) Upon failure of the violator to obey the warning citation, a civil citation shall be issued by the appropriate official of the town and either served directly on the violator or his or her duly designated agent, or registered agent if a corporation, in person or posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of the town, or obtained from the violator at the time of issuance of the warning citation. The violator shall be deemed to have been served upon the mailing of such citation. The citation shall direct the violator to appear before the Town Treasurer, located in the town hall, within 15 days of the date of the citation or alternatively to pay the citation by mail. The violation for which the citation is issued must have been corrected by the time the citation is paid; otherwise, further citations shall be issued. Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated.

(K) If the violator fails to respond to a citation within 15 days of its issuance and pay the penalty prescribed therein, the town may institute a civil action in the nature of debt in the appropriate division of the North Carolina General Court of Justice for the collection of the penalty.

(1997 Code, § 1-6) (Ord. 2012-03-01, passed 3-19-2012)

***Statutory reference:***

*Penalty for violation of town ordinances, see G.S. § 14-4*

*Similar provisions, see G.S. § 160A-175*

## TITLE III: ADMINISTRATION

Chapter

**30. GENERAL PROVISIONS**

**31. MAYOR AND BOARD OF COMMISSIONERS**

- 32. OFFICERS AND EMPLOYEES
- 33. TOWN ORGANIZATIONS
- 34. POLICE DEPARTMENT
- 35. FINANCES
- 36. EMERGENCY MANAGEMENT
- 37. PERSONNEL
- 38. CHARTER AMENDMENTS

## **CHAPTER 30: GENERAL PROVISIONS**

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Section

- 30.01 Town office hours
- 30.02 Absentee voting
- 30.03 Access to town records
- 30.04 Requests for inspection of town record
- 30.05 Exemptions

### **§ 30.01 TOWN OFFICE HOURS.**

The town office will be open from 9:00 a.m. to 5:00 p.m., Monday through Friday. The office will be closed on Saturday, Sunday and on all legal holidays.  
(1997 Code, § 2-1)

### **§ 30.02 ABSENTEE VOTING.**

The Board of Commissioners hereby authorizes absentee voting in all future elections.  
(1997 Code, § 2-2)

### **§ 30.03 ACCESS TO TOWN RECORDS.**

All town records shall be open to the public and may be inspected, examined and copied by any person subject to the rules and regulations established by this chapter and by state law.  
(1997 Code, § 2-166)

### **§ 30.04 REQUESTS FOR INSPECTION OF TOWN RECORD.**

(A) Any person wishing to examine or inspect a town record may do so by contacting the Town Clerk. If more than 3 items or records are requested, notice must be given to the Town Clerk at least 6 hours in advance.

(B) All requests for information must be directed to the Clerk during normal office hours. No town records may be removed from the town hall, but records may be copied by the Clerk for any person at a cost of \$.10 per sheet.

(C) If the Clerk receives a request for information that the Clerk determines may be confidential under the terms of this section or state law, or a request for such a large amount of information that it would take a substantial amount of the Clerk's time to respond, the Clerk shall forward such a request to the Board of Commissioners for determination.

(1997 Code, § 2-167) (Am. Ord. 99-04-03, passed 4-19-1999)

### **§ 30.05 EXEMPTIONS.**

The following information shall not be open to public inspection:

(A) Confidential communications between the Town Attorney and the Board of Commissioners, as provided in G.S. § 132-1.1;

(B) Investigative reports and other memoranda prepared by the town police officers relating to an investigation of a crime, as provided by a 1975 opinion of the Attorney General (published in vol. 44 of the Attorney General's Reports, p. 340);

(C) Information in a town employee's personnel file that is made confidential by G.S. § 160A-168;

(D) Documents or records, including minutes, which are an integral part of an executive, closed or private session held in accordance with the open meetings law, G.S. § 143-318.11, and whose disclosure would nullify the purpose of holding the executive, closed or private session; and

(E) Such other exemptions as may be allowed by the General Statutes, as amended from time to time.

(1997 Code, § 2-168)

## **CHAPTER 31: MAYOR AND BOARD OF COMMISSIONERS**

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### Section

#### *General Provisions*

- 31.01 Governing body
- 31.02 Power and duties
- 31.03 Mayor; duties
- 31.04 Mayor Pro Tem
- 31.05 Appointment of committees

#### *Meetings*

- 31.20 Regular meetings
- 31.21 Special meetings
- 31.22 Adjourned meetings
- 31.23 Mayor to preside
- 31.24 Quorum

- 31.25 When Mayor may vote
- 31.26 Order of business
- 31.27 Rules of procedure

*Ordinances*

- 31.40 Procedure; form
- 31.41 Effective date
- 31.42 Ordinances confined to one subject
- 31.43 Official copy
- 31.44 Ordinance book
- 31.45 Adding ordinances to code
- 31.46 Ordinances appropriating money
- 31.47 Unlawful amendment of ordinances

**GENERAL PROVISIONS**

**§ 31.01 GOVERNING BODY.**

The governing body of the town shall consist of a Board of Commissioners of 5 members, elected according to the uniform municipal election laws of the state. The governing body shall be charged with the general government and administration of the affairs of the town. (1997 Code, § 2-31)

**§ 31.02 POWERS AND DUTIES.**

The powers and duties of the governing body shall be as set out in state law, the town's Charter, and the ordinances of the town. (1997 Code, § 2-32)

**§ 31.03 MAYOR; DUTIES.**

It shall be the duty of the Mayor to attend and preside over all meetings of the Board of Commissioners. It shall further be the duty of the Mayor, within 30 days after the close of each calendar year, to require a report to the Board from the various departments of the town government for the previous year and recommend such adjustments as he or she may see fit. The Mayor shall be the chief executive officer of the town and shall perform such other duties as the Board may from time to time require. (1997 Code, § 2-33)

**§ 31.04 MAYOR PRO TEM.**

The Town Board shall select 1 member to serve as Mayor Pro Tem at the pleasure of the Board of Commissioners. The Mayor Pro Tem shall perform the duties of the Mayor temporarily during the absence or disability of the Mayor. If the office of Mayor becomes vacant, the Mayor Pro Tem shall perform the duties of the Mayor until a successor is appointed by the Board.  
(1997 Code, § 2-34)

### **§ 31.05 APPOINTMENT OF COMMITTEES.**

The Mayor and Commissioners may create such committees of the Board of Commissioners for special purposes as they deem best.  
(1997 Code, § 2-35)

## **MEETINGS**

### **§ 31.20 REGULAR MEETINGS.**

(A) Every member of the Board and its officers shall attend all meetings of the Board unless excused.

(1) The regular official meeting of the Board of Commissioners shall be held on the third Monday of each month at 7:00 p.m. in the town hall.

(2) A second regular meeting of the Board, to be known as a working meeting, shall be held on the second Monday of each month at 7:00 p.m. in the town hall.

(a) Such a meeting shall be for the purpose of discussing matters, which may properly come before the Board.

(b) The working meeting may be cancelled or scheduled for a different time or place at the discretion of the Board.

(B) If the Board holds a regular meeting at any time or place other than specified in division (A) of this section, it shall give notice of the time and place by posting such notice on the town bulletin board, and by notifying those news media and other persons who have filed a written request with the Town Clerk. This notice shall be posted and mailed or delivered at least 48 hours before the time of the meeting. The town body shall charge a fee of \$10 per calendar year to persons other than the media who request notice and may require them to renew their requests quarterly.

(1997 Code, § 2-51) (Am. Ord. 05-02-01, passed 2-21-2005; Am. Ord. 2005-06-10, passed 6-27-2005; Am. Ord. 2005-06-11, passed 6-27-2005; Am. Ord. 2-51, passed 12-19-2005; Am. Ord. 2009-04, passed 2-16-2009)

### **§ 31.21 SPECIAL MEETINGS.**

Special meetings of the Board of Commissioners may be held according to the procedures set out in G.S. § 153A-40.

(1997 Code, § 2-52)

**§ 31.22 ADJOURNED MEETINGS.**

Any meeting of the Board of Commissioners may be continued or recessed from day to day, or for more than 1 day; but no recess shall be for a longer period than until the next regular meeting thereafter unless otherwise ordered by the Board.  
(1997 Code, § 2-53) (Am. Ord. 2005-06-12, passed 6-27-2005)

**§ 31.23 MAYOR TO PRESIDE.**

The Mayor shall preside at all meetings of the Board of Commissioners, and in his or her absence the Mayor Pro Tem shall preside.  
(1997 Code, § 2-54)

**§ 31.24 QUORUM.**

A majority of the actual membership of the Board of Commissioners plus the Mayor, excluding vacant seats, shall constitute a quorum, and no official business of the town shall be transacted by the Board unless a quorum is present. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for determining whether or not a quorum is present.  
(1997 Code, § 2-55)

**§ 31.25 WHEN MAYOR MAY VOTE.**

The Mayor shall not vote on any question before the Board of Commissioners except in the case of a tie vote deadlocking a decision of the Board.  
(1997 Code, § 2-56)

**§ 31.26 ORDER OF BUSINESS.**

(A) At the hour appointed for the meeting of the Board of Commissioners, the Mayor shall take the chair and direct a call of the members by the Town Clerk, who shall note the absentees. If a quorum fails to attend, the meeting shall stand adjourned to a time agreed on by a majority of the members present. The Mayor may when present substitute any member of the Board to perform the duties of the chair, but substitution shall not extend beyond adjournment except by special consent of the Board.

(B) Unless the Board agrees in advance otherwise, the business of the Board shall be taken up for consideration and disposition at regular meetings in the following order:

- (1) Call to order;
- (2) Reading or disposition of minutes of the previous meeting;
- (3) Reports of Boards and standing committees;
- (4) Citizens to be heard;

- (5) Unfinished business;
- (6) New business;
- (7) Announcements;
- (8) Other business or Commissioners to be heard; and
- (9) Adjournment.

(C) If the Board directs any matter to be the special business of a future meeting, the matter shall have precedence over all other business at that meeting.

(1997 Code, § 2-57)

### **§ 31.27 RULES OF PROCEDURE.**

The Mayor and Board of Commissioners shall observe, as nearly as possible, the following rules of debate and decorum:

(A) *Manner of speaking.* Every member desiring to speak shall address the chair and upon recognition by the Mayor shall confine himself or herself to the question under debate, avoiding all conflicts in personalities and indecorous language.

(B) *Interrupting the speaker.* A member, once recognized, shall not be interrupted when speaking unless it is to call him or her to order or as otherwise provided under applicable rules of parliamentary procedure. If a member, while speaking, is called to order, he or she shall cease speaking until the question of order is determined and, if in order, he or she shall be permitted to proceed.

(C) *Addressing the Board.* Any person desiring to address the Board shall first secure the permission of the Mayor. Any interested parties or their authorized representatives may address the Board on matters listed on the agenda of the Board. After a motion is before the Board, no person shall address the Board without first securing the permission of the Board to do so.

(D) *Manner of addressing Board; time limit.* Every person addressing the Board shall give his or her name and address for the record and the Board, after consideration of the number of persons desiring to address the Board at such meeting, shall set a time limit for each such person to speak. All remarks shall be addressed to the Board as a body and not to any member thereof. No person, other than Board members and the person having the floor, shall be permitted to enter into any discussion either directly or through a member of the Board. No question shall be asked a member except through the Mayor.

(E) *Request to have statement abstracted.* A member may request from the Mayor the privilege of having an abstract of his or her statement on any subject under consideration by the Board entered in the minutes.

(F) *Questions of order.* All questions of order shall be decided by the Mayor without debate, subject to an appeal to the Board.

(1997 Code, § 2-58)

## **ORDINANCES**

### **§ 31.40 PROCEDURE; FORM.**

Every ordinance amending or repealing any ordinance and every new ordinance shall be proposed in writing. Ordinances shall have ordinance numbers and section captions.  
(1997 Code, § 2-66)

**§ 31.41 EFFECTIVE DATE.**

All ordinances shall be effective after the ratification thereof except ordinances specifying some other effective date or ordinances required by state law to be effective only after having met specific date requirements.  
(1997 Code, § 2-67)

**§ 31.42 ORDINANCES CONFINED TO ONE SUBJECT.**

All ordinances shall be confined to 1 subject except appropriation ordinances, which shall be confined to the subject of appropriations only.  
(1997 Code, § 2-68)

**§ 31.43 OFFICIAL COPY.**

A true copy of an ordinance, which has been duly enacted by the Board of Commissioners, signed by the Mayor, and attested to by the Town Clerk, shall be known as an official copy of any ordinance for the town. All ordinances or a true copy thereof shall be appropriately codified into this code.  
(1997 Code, § 2-69)

**§ 31.44 ORDINANCE BOOK.**

The Town Clerk shall file a true copy of each ordinance, until it is codified in this code, in an ordinance book separate and apart from the Board of Commissioners' minute book. The ordinance book shall be appropriately indexed and maintained for public inspection in the office of the Clerk.  
(1997 Code, § 2-70)

**§ 31.45 ADDING ORDINANCES TO CODE.**

Any ordinance which is proposed to add to the code a new chapter, subchapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter, subchapter or section.  
(1997 Code, § 2-71)

**§ 31.46 ORDINANCES APPROPRIATING MONEY.**

No appropriation ordinance or any ordinance to alter or repeal an appropriation ordinance shall be enacted at any meeting other than a regular meeting except by unanimous vote of the Board of Commissioners present and voting.  
(1997 Code, § 2-72)

**§ 31.47 UNLAWFUL AMENDMENT OF ORDINANCES.**

It shall be unlawful for members of the Board of Commissioners to annul, abridge, modify or in any way change any ordinance of the Board except at a regular or special meeting of the Board.  
(1997 Code, § 2-73) Penalty, see § 10.99

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**CHAPTER 32: OFFICERS AND EMPLOYEES**

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Section

*General Provisions*

- 32.01 Bond of officers and employees
- 32.02 Consolidation of offices
- 32.03 Appointment of other officers and employees
- 32.04 Defense of public officials for performance of duties

*Town Clerk*

- 32.15 Appointment; powers and duties

*Town Attorney*

- 32.30 Appointment; powers and duties

*Town Manager*

- 32.45 Appointment; powers and duties

*Finance Officer*

- 32.60 Appointment; powers and duties

**GENERAL PROVISIONS**

**§ 32.01 BOND OF OFFICERS AND EMPLOYEES.**

The Town Clerk and other officers or employees required by the Board of Commissioners shall post bonds in accordance with state law, in amounts specified by the Board. All bond premiums shall be paid from town funds.  
(1997 Code, § 2-91)

**§ 32.02 CONSOLIDATION OF OFFICES.**

Except as otherwise provided by law, the Board of Commissioners may in its discretion consolidate any 2 or more offices and assign the duties of both offices to 1 or more persons.  
(1997 Code, § 2-92)

**§ 32.03 APPOINTMENT OF OTHER OFFICERS AND EMPLOYEES.**

(A) The Town Commissioner who is named Finance Commissioner by the Town Board shall act as the budget officer.

(B) Such other officers and employees that are deemed necessary shall be appointed by the Board of Commissioners. All officers and employees shall serve at the pleasure of the Board and receive such compensation as from time to time may be prescribed by the Board.  
(1997 Code, § 2-93)

**§ 32.04 DEFENSE OF PUBLIC OFFICIALS FOR PERFORMANCE OF DUTIES.**

(A) The Board of Commissioners hereby finds the following facts:

(1) The actions of the employees, officers and public office holders of the town often require that they take a stand in the performance of their official duties that may bring them into conflict with the interest of others.

(2) It is important that the town be able to attract to its public offices and to its employment the very best people available.

(3) It is difficult to attract competent people to such employment and offices when those persons are fearful that they may have to expend large sums of money to defend themselves for actions taken within the course of the discharge of the duties of their offices or employment.

(B) If any public official, officer or employee of the town shall be sued or prosecuted or threatened with suit or prosecution for any action taken in the course of the discharge of the duties of their office or employment, the town shall provide a defense for such officials, officers or employees, to be paid out of the general funds of the town. Before any such defense is undertaken, the Board of Commissioners shall first decide, by a majority vote of those voting on the question, whether or not the action taken was in the course of the discharge of the duties of the office or employment of the person sued, prosecuted or threatened with suit or prosecution.  
(1997 Code, § 2-94)

**TOWN CLERK**

**§ 32.15 APPOINTMENT; POWERS AND DUTIES.**

(A) The Town Clerk shall be appointed by and serve at the pleasure of the Board of Commissioners.

(B) The Clerk shall perform the following duties:

(1) The Clerk shall attend all meetings of the Board as required and shall regularly and fairly record all proceedings in a minute book to be kept for that purpose. The Clerk shall also maintain the Code of Ordinances, in which shall be fairly and correctly transcribed all ordinances which are enacted by the Board.

(2) It shall be the duty of the Clerk to keep true, accurate and just books of accounts of the dealings and transactions of the town; which books shall show at all times the true condition of the town; its resources and liabilities and the disposition and use of the moneys coming under the control of the town, and be reported at the regular meeting each month.

(3) The Clerk shall act as Town Treasurer and Tax Collector subject to state law and written permission of the secretary of the local government commission of the state and shall keep or cause to be kept in a safe place all moneys, records and accounts.

(4) The Clerk shall perform such other duties as the Board may from time to time require.

(1997 Code, § 2-111)

**TOWN ATTORNEY**

**§ 32.30 APPOINTMENT; POWERS AND DUTIES.**

The Board of Commissioners shall appoint a Town Attorney, whose duties shall be to:

(A) Prosecute or defend any and all suits or actions at law or equity to which the town may be a party; or in which it may be interested; or which may be brought against or by any officer of the town; or in the capacity of the person as an officer of the town;

(B) See to the full enforcement of all judgments or decrees rendered or entered in favor of the town;

(C) See to the completion of all special assessment proceedings and condemnation proceedings;

(D) Draft or review any contract, lease or other document or instrument to which the town may be a party and approve all ordinances and resolutions of the Board as to form;

(E) At the request of the Board, draft ordinances covering any subjects within the power of the town;

(F) Attend meetings of the Board upon request; and

(G) Perform any other duties required of him or her by the Board.

(1997 Code, § 2-121)

**TOWN MANAGER**

**§ 32.45 APPOINTMENT; POWERS AND DUTIES.**

The Town Manager shall have all powers and duties as prescribed by the North Carolina General Statutes (160A-148. Powers and duties of manager.) along with any other duties and responsibilities assigned by the Town’s Board of Commissioners, as well as any duties and responsibilities contained within the Town of Cape Carteret’s Code of Ordinances. For the purposes of interpreting various sections of the Town’s Code of Ordinances references to the Floodplain Administrator, CAMA Local Permitting Officer, Code Enforcement Officer shall be interpreted to apply to the role of Town Manager or their designee.

(Ord. 2020.02.03; passed 02-10-2020)

**FINANCE OFFICER**

**§ 32.60 APPOINTMENT; POWERS AND DUTIES.**

A. The position of Finance Officer for the town is hereby established pursuant to G.S. § 159-24.

B. It shall be the duty of the Finance Officer to keep true, accurate and just books of accounts of the dealings and transactions of the town, which books shall show at all times the true condition of the town, its resources and liabilities and the disposition and use of the monies coming under the control of the town.

C. The Finance Officer shall keep or cause to be kept in a safe place all monies, records, and accounts.

(Ord. 2017-04-01; passed 4-10-2017)

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**CHAPTER 33: TOWN ORGANIZATIONS**

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Section

*Public Works*

- 33.01 Organization
- 33.02 Supervision of Department
- 33.03 Public Works employees; duties
- 33.04 Qualifications

**PUBLIC WORKS**

**§ 33.01 ORGANIZATION.**

The Public Works Department of the town shall consist of as many full-time and part-time employees as the Board of Commissioners sees fit.  
(1997 Code, § 2-146)

**§ 33.02 SUPERVISION OF DEPARTMENT.**

(A) The ~~Board of Commissioners~~ Town Administrator shall have general supervision over the employees of the Public Works Department. The ~~Board~~ may suspend any member of the Public Works Department until the next regular meeting, at which time final disposition shall be made.

~~(B) The employees of the Public Works Department are under the immediate supervision of the designated Commissioner.~~

(1997 Code, § 2-147) (Ord. 2017-04-01; passed 4-10-2017)

**§ 33.03 PUBLIC WORKS EMPLOYEES; DUTIES.**

The following functions are designated as public works functions for the town:

(A) The Public Works Supervisor is responsible for operation and minor maintenance of town vehicles.

(B) The Public Works Supervisor must possess a valid state driver's license.

(C) Specific duties include mosquito spraying, cleaning and mowing street rights-of-way, clearing of lots, and operation of the town pickup truck for minor hauling.

(D) The Public Works Supervisor will be responsible for minor street repair pertaining to all streets and rights-of-way located within the town limits, and will be responsible for repairing, replacing, erecting and general upkeep of all safety and traffic regulation signs installed within the town limits.

(E) The Public Works Supervisor will be responsible for maintenance and general housekeeping functions, including painting, cleaning, plumbing, and repairs to town buildings and structures.

(F) The Public Works employees must possess ability to operate hand tools and power tools utilized in clearing of tree branches, and the like, in performance of duties.

(1997 Code, § 2-148)

**§ 33.04 QUALIFICATIONS.**

The Public Works employees in the performance of these duties must have a good understanding and knowledge of the objectives of maintenance functions. The Public Works employees must have the ability to apply related work methods that pertain to maintenance functions. The Public Works employees must be sober and reliable.

(1997 Code, § 2-149)

## CHAPTER 34: POLICE DEPARTMENT

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Section

*Police Department*

- 34.01 Organization
- 34.02 Supervision of department
- 34.03 ~~Public Safety Commissioner~~ Town Administrator Police Department; duties
- 34.04 Chief of Police; duties; qualifications
- 34.05 Duties of police officers; qualifications
- 34.06 Mutual aid authorization
- 34.07 Special separation allowance payments to a retired law enforcement officer under G.S. 143-166.42

*Auxiliary Police Division*

- 34.20 Establishment
- 34.21 Supervision of division
- 34.22 Membership; oath; training
- 34.23 Qualifications
- 34.24 Duties
- 34.25 Identification; uniform
- 34.26 Use of firearms
- 34.27 Active duty
- 34.28 Powers of arrest; privileges and immunities

## POLICE DEPARTMENT

### § 34.01 ORGANIZATION.

The Police Department of the town shall consist of a Police Chief and officers and patrol officers and auxiliary patrol officers of designated grade as deemed necessary by the Board of Commissioners.

(1997 Code, § 18-31)

### § 34.02 SUPERVISION OF DEPARTMENT.

~~(A) The Board of Commissioners shall have general supervision over the Police Department.~~

(A) The Town Administrator shall supervise all employees of the Police Department. The Town Administrator may suspend any member of the Police Department upon recommendation of the Police Chief until the next regular meeting of the Board of Commissioners, at which time final disposition shall be made.

~~(B) The Public Safety Commissioner shall have immediate supervision over the Police Department.~~

~~(B) The Chief of Police is held responsible for the discipline, good order and proper conduct of the Department.~~

~~(C) The Chief of Police is held responsible for the discipline, good order and proper conduct of the Department.~~

~~(D)~~ (C) Final disposition of any case will be set at the next regular town meeting. No suspension will be without pay until the final disposition has been made by the Board of Commissioners, except in the following cases:

- (1) Cases of violations against the United States;
- (2) Cases of violations against the state as set forth in the criminal codes in effect; or
- (3) Cases of being under the influence of alcohol or any other illegal impairing substance that is not authorized by a physician in a duty status.
- (4) Where the officer poses a substantial danger to the health and well-being of others

(1997 Code, § 18-32) (Ord. 2017-04-01; passed 4-10-2017)

### **§ 34.03 PUBLIC SAFETY COMMISSIONER TOWN ADMINISTRATOR POLICE DEPARTMENT; DUTIES.**

The ~~Public Safety Commissioner~~ Town Administrator shall be responsible for the following:

- (A) Establishing guidelines for the Police Department;
- (B) Approving the monthly schedule of duty hours, days off, annual leave, and sick leave, submitted by the Chief of Police;
- (C) Conducting a thorough investigation of all outstanding acts of valor and conduct of all police personnel;
- (D) Conducting a thorough investigation of any complaints against any police personnel;
- ~~(E) Making a monthly report to the Board of Commissioners of matters relating to the Police Department; and~~
- (F) In case of a vacancy in the position of Chief of Police, ~~the Public Safety Commissioner will select the 3 best applicants and submit their names to the Board of Commissioners in order of preference for interview and selection for employment~~ the Town Administrator will advertise the vacancy and bring to the Board of Commissioners for review.

(1997 Code, § 18-33) (Ord. 2017-04-01; passed 4-10-2017)

### **§ 34.04 CHIEF OF POLICE; DUTIES; QUALIFICATIONS.**

- (A) The duties of the Chief of Police are as follows:

Cape Carteret, NC Code of Ordinances

(1) The Police Chief commands the force under his or her order and is responsible for its discipline and efficiency. It is his or her responsibility to issue to the force under his or her command such orders and directives as may be necessary to preserve the public peace, prevent crime, arrest offenders, and protect public and private property and persons in the town; to enforce the laws, ordinances, police regulations, standard operating procedures in effect at the time as approved by the Board of Commissioners, and executive orders applicable to his or her jurisdiction; to require the proper submission and handling of necessary required reports.

(2) The Chief of the Police Department is directed to implement such standard operating procedures as he or she deems appropriate for the efficient administration of the Police Department subject to the following:

(a) Such standard operating procedures are subordinate to all provisions of this code and all other ordinances and other actions and directions adopted by the Board of Commissioners from time to time;

(b) The standard operating procedures shall not vest any member of the Police Department with an expectation of continued employment; and

(c) All personnel within the Police Department serve at the pleasure of the Board of Commissioners, notwithstanding the standard operating procedures.

(3) The Chief of Police shall attend, as required, meetings of the Board of Commissioners.

(4) The Chief of Police shall make a monthly schedule of duty hours for all police personnel, the schedule to be prepared by the twenty-fifth of each month for the ensuing month.

~~(a) No changes of the monthly schedule will be made without the approval of the Public Safety Commissioner. In case of an emergency, the Mayor or any member of the Board may grant leave or time off.~~

~~(b)~~(a) A copy of the monthly schedule will be provided to the ~~Mayor and all members of the Board~~ Town Administrator.

(5) The Chief of Police will be responsible for all equipment belonging to the Police Department.

(6) The Chief of Police will be responsible for making a monthly report in writing to the ~~Public Safety Commissioner~~ Town Administrator on all matters relating to the operation of the Police Department. The report will cover the preceding work cycle.

(7) The Chief of Police will maintain a file of applicants seeking employment as a police officer. The Chief of Police will recommend to the ~~Public Safety Commissioner~~ Town Administrator the 3 best qualified applicants ranked in the order of preference for employment. Prior to submitting his or her recommendation, the Chief will investigate each applicant. However, all applications will be submitted to the ~~Public Safety Commissioner~~ Town Administrator for review prior to submitting his or her recommendation to the Board for selection. All applications will be made available to the Board of Commissioners at their request.

(8) The Chief of Police will patrol the streets of the town on a regular basis to ensure compliance with all applicable federal, state and local laws and those town ordinances which come under the authority of the Police Department.

(9) The Chief of Police will be responsible for all found or abandoned property. The Chief of Police will ensure that all evidence and suspected proceeds of crime to be used in court or any other hearing are handled in accordance with state law. The dispositions of

all property will be reported to the Board. No property will be used for the personal use by any police officer or sold or given to anyone without proof of ownership.

(B) The Chief of Police in the performance of these duties must have a good understanding and knowledge of the objectives of the highly diversified laws governing police functions, and a thorough knowledge of police and safety regulations and procedures. The Chief must have the ability to deal with the public in all matters. The Chief must have the ability to apply related work methods that pertain to police operations. The Chief must be sober and reliable.

(C) The Chief of Police may be required to supervise part-time employees pertaining to street maintenance and/or auxiliary police officers that may be assigned to assist in the functions of this position.

(1997 Code, § 18-34) (Ord. 2017-04-01; passed 4-10-2017)

### **§ 34.05 DUTIES OF POLICE OFFICERS; QUALIFICATIONS.**

The duties of police patrol officers shall be as follows:

(A) Police officers, when on duty, shall be in uniform;

(B) The officers on duty will work the schedule set by the Chief of Police. The work load will be divided equally into 168 hours per cycle;

(C) The officers on duty are responsible for all the police functions in the town. The officers will be required to patrol the streets of the town on a regular basis. The officers will investigate all traffic accidents and crimes that occur within the town limits;

(D) The officers will be required to attend court sessions or hearings at the county courthouse on matters relating to police functions. This attendance will be normally restricted to accidents and crimes occurring within the town limits;

(E) The officers will be responsible for enforcing federal, state and local laws. They will follow the guidelines established by the ~~Public Safety Commissioner~~ Town Administrator as authorized in § 34.03(A).

(F) The officers on duty will be responsible for ~~the control of~~ contacting the proper personnel of the County to control stray or unlicensed animals running at large within the town limits;

(G) The officers may be required to attend police schools and seminars as required in the fulfillment of their duties and assignments upon recommendation of the Chief of Police and with the approval of the Board of Commissioners;

(H) The officers will keep authentic accurate records pertaining to all police operations.

(I) The officers will not discuss any police investigations or matters pertaining to the police duties with anyone except the Chief of Police and the Town Administrator ~~Public Safety Commissioner~~; and

(J) Qualification requirements:

(1) The incumbent in the performance of these duties must require a good understanding and knowledge of the objectives of the highly diversified laws governing police functions and a thorough knowledge of police and safety regulations and procedures;

(2) The officers must have the ability to deal with the public in all matters;

- (3) The officers must have the ability to apply related work methods that pertain to police operations;
  - (4) The officers must be sober and reliable;
  - (5) The officers must meet minimum standards required by the minimum standards council; and
  - (6) The officers must be capable of supervising part-time employees and auxiliary police officers.
- (1997 Code, § 18-35) (Ord. 2017-04-01; passed 4-10-2017)

#### **§ 34.06 MUTUAL AID AUTHORIZATION.**

- (A) The Board of Commissioners hereby finds the following facts:
  - (1) The Board wishes to enhance the efficiency of law enforcement in the town in particular and in the state in general;
  - (2) The general assembly enacted G.S. § 160A-288, which allows loans or assistance between law enforcement agencies in the state; and
  - (3) The Chief of Police has requested that pursuant to G.S. § 160A-288 that the Board establish rules, policies and guidelines for the Police Department in order that it may be of assistance to other law enforcement agencies in accordance with G.S. § 160A-288.
- (B) The following rules, policies and guidelines are hereby officially adopted by the Board:
  - (1) The Chief of Police, upon notification of the Police Commissioner, is authorized to provide temporary assistance to any sheriffs department, county police department or municipal police department in the state if the Chief receives written request for such assistance from the head of any such department and if the Chief determines that such assistance is in the best interests of effective law enforcement. However, in cases where the safety of citizens is at risk, the Police Chief may render such assistance as he or she deems necessary until proper authority can be obtained.
  - (2) As provided for in G.S. § 160A-288(a), such assistance may comprise allowing officers of the Police Department to work temporarily with officers of the requesting agency, including in an undercover capacity, and lending equipment and supplies. While working with the requesting agency under the authority of this section, an officer shall have the same jurisdiction, powers, rights, privileges and immunities as the officers of the requesting agency in addition to those the officer normally possesses. While on duty with the requesting agency, he or she shall be subject to the lawful operation commands of his or her superior officers in the requesting agency; but he or she shall, for personnel and administrative purposes, remain under the control of his or her own agency, including for purposes of pay. The officer shall furthermore be entitled to workers' compensation and the same benefits when acting pursuant to this section to the same extent as though he or she were functioning within the normal scope of his or her duties.
  - (3) Any officer under this authorization loaned to another agency shall present a written report of his or her work within 10 days following completion of his or her work to the Chief of Police. The Chief of Police may be required to provide the Police Commissioner with a brief statement of the amount of assistance rendered and the department to which such assistance was rendered. However, no information shall be required in written form which may endanger

the life or safety of any law enforcement officer or the security or efficiency of any law enforcement agency.  
(1997 Code, § 18-36)

**§ 34.07 SPECIAL SEPARATION ALLOWANCE PAYMENTS TO A RETIRED LAW ENFORCEMENT OFFICER UNDER G.S. 143-166.42.**

(A) To qualify for the special separation allowance the officer shall comply with the requirements set forth in G.S. 143-166.42.

(B) Special separation allowance payments under G.S. 143-166.42 to a retired officer shall cease at any of the following conditions:

- (1) The death of the officer; or
- (2) The last day of the month in which the officer attains 62 years of age; or
- (3) If the officer worked for the Town of Cape Carteret for a period of less than five (5) years, upon the first day of full time re-employment by any North Carolina department, agency, institution, or local municipality that is supported by the same retirement system from which the police officer retired.  
(Ord. 2009-03, passed 2-16-2009)

**AUXILIARY POLICE DEPARTMENT**

**§ 34.20 ESTABLISHMENT.**

There is hereby established within the Police Department as a division thereof an Auxiliary Police Division. The Auxiliary Police Division shall be a volunteer organization, composed of as many members as may, from time to time, be determined by the Board of Commissioners.  
(1997 Code, 18-66)

**§ 34.21 SUPERVISION OF DIVISION.**

The Auxiliary Police Division shall be under the direct control of the Chief of Police acting under the general supervision of the Board of Commissioners. All appointments and removals of members of the Auxiliary Police Division shall be made in the same manner and under the same policies and procedures as may, from time to time, be established for appointment and removal of regular police officers.  
(1997 Code, § 18-67)

**§ 34.22 MEMBERSHIP; OATH; TRAINING.**

The Auxiliary Police Division shall have no commanding officer nor any other officers, and all members shall bear the rank of patrolperson. Each member of the Auxiliary Police Division shall take the oath of office of a regular police officer. Except as provided in § 34.23, the Chief of Police shall provide for adequate training of members of the Auxiliary Police Division, and of candidates for membership.  
(1997 Code, § 18-68)

### **§ 34.23 QUALIFICATIONS.**

(A) All candidates for membership in the Auxiliary Police Division shall meet the following qualifications:

- (1) Meet the minimum standards prescribed by the State Criminal Justice and Training Council;
- (2) Be willing to obligate himself or herself to 24 hours of active duty each month without pay;
- (3) Be willing to attend the 240-hour basic police school during the probationary year of service, the first year of service, on his or her own time;
- (4) Be capable of exercising good, mature judgment and be capable of dealing with people in a courteous manner;
- (5) Be of good character and reputation;
- (6) Possess a state driver's license and a history of good driving habits. Evidence of more than 2 moving violations during the preceding 3 years shall be presumptive evidence that the candidate is not possessed of good driving habits; and
- (7) Be willing to be guided by applicable state and local laws and departmental procedures and guidelines as appropriate.

(B) Failure of any auxiliary police officer to continue to meet and to comply with the requirements of this section shall be reason for his or her dismissal.  
(1997 Code, § 18-69)

### **§ 34.24 DUTIES.**

(A) The duties of the Auxiliary Police Division, subject at all times to the direction, supervision and control of the Chief of Police or his or her designee, shall be to assist the regular members of the Police Department in the enforcement of law and the maintenance of peace and order when called to active duty by the Chief of Police. The Chief of Police shall by order establish rules and regulations to govern the Auxiliary Police Division, to fix the specific duties of its members, and to provide for the maintenance and discipline. Members of the Auxiliary Police Division shall obey the instructions of regular police officers in carrying out their duties.

(B) The Chief of Police may prescribe other duties than those mentioned herein to be performed by the Auxiliary Police Division, with approval of the Board of Commissioners.  
(1997 Code, § 18-70)

### **§ 34.25 IDENTIFICATION; UNIFORM.**

(A) An identification card and other insignia of evidence of identity as the Chief of Police may prescribe shall be issued to each member of the Auxiliary Police Division, who must carry the card and other identification at all times while on duty, and who must surrender them upon the termination of his or her membership.

(B) Each auxiliary police officer will be provided with 1 uniform by the town. Every auxiliary police officer shall wear a uniform at all times while on duty and must surrender the uniform furnished by the town upon the termination of his or her membership. The uniform must be returned to the town in the same condition as received, ordinary wear and tear excepted.  
(1997 Code, § 18-71)

### **§ 34.26 USE OF FIREARMS.**

No member of the Auxiliary Police Division shall, while on duty, carry or use any firearm except upon the express order of the Chief of Police or his or her designee; and all official firearms shall be kept in the custody of the Police Department except when issued to a member of the Auxiliary Police Division for use on active duty while accompanied by and under the supervision of 1 or more regular police officers.  
(1997 Code, § 18-72)

### **§ 34.27 ACTIVE DUTY.**

No member of the Auxiliary Police Division shall enforce or attempt to enforce any law except when called to active duty, and when directed to do so by the Chief of Police.  
(1997 Code, § 18-73)

### **§ 34.28 POWERS OF ARREST; PRIVILEGES AND IMMUNITIES.**

Members of the Auxiliary Police Division shall, while undergoing official training, while performing duties on behalf of the town, and when properly certified by the State Criminal Justice Training and Standards Council, pursuant to orders or instructions of the Chief of Police, be entitled to all powers of arrest, and privileges and immunities afforded by law to regularly employed police officers.  
(1997 Code, § 18-74)

## **CHAPTER 35: FINANCES**

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### Section

- 35.01 Purchasing order
- 35.02 Disbursement of funds
- 35.03 Countersignatures on drafts

**§ 35.01 PURCHASING ORDER.**

(A) Before any order is given for items to be paid for by the town or any purchase made by any town employee, a purchasing order must first be obtained from the ~~Town Clerk~~ Finance Officer with final authorization by the Town Administrator.

(B) Any town employee purchasing goods without a purchasing order from the ~~Clerk Finance Officer and Town Administrator~~ will be held responsible for the cost of the goods. (1997 Code, § 2-196) (Ord. 2017-04-01; passed 4-10-2017)

**§ 35.02 DISBURSEMENT OF FUNDS.**

(A) In accordance with the Local Government Budget and Fiscal Control Act, being G.S. Ch. 159, Art. 3, no check or draft of the town shall be valid unless it bears on its face the certificate of the Treasurer as follows:

“This disbursement has been approved as required by the Local Government Budget and Fiscal Control Act, being G.S. Ch. 159, Art. 3.”

(B) No contract, agreement or purchase order shall be valid unless it bears the Finance Officer's certificate as follows:

“This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act, being G.S. Ch. 159, Art. 3.”

(1997 Code, § 2-197)

**§ 35.03 COUNTERSIGNATURES ON DRAFTS.**

All checks and drafts issued by the town, regardless of amount, must be signed by the ~~Town Clerk and 1 other authorized person.~~ Finance Officer or Town Administrator and one other designated official.

(1997 Code, § 2-198) (Ord. 2017-04-01; passed 4-10-2017)

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**CHAPTER 36: EMERGENCY MANAGEMENT**

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Section

*State of Emergency*

- 36.01 Restrictions authorized
- 36.02 Proclamation; imposing prohibitions and restrictions
- 36.03 Evacuation procedure
- 36.04 Curfew
- 36.05 Certain activities prohibited or restricted during state of emergency
- 36.06 Removal of prohibitions and restrictions
- 36.07 Superseding and amendatory proclamations
- 36.08 Termination of proclamation

- 36.09 In case of absence or disability of Mayor
- 36.10 Motor vehicle registration
- 36.11 Proclamation forms
  
- 36.99 Penalty

## **STATE OF EMERGENCY**

### **§ 36.01 RESTRICTIONS AUTHORIZED.**

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

(B) In the event of an existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within the town or any part thereof, or threatening damage to or destruction of property, the Mayor is hereby authorized and empowered under G.S. § 166A-8 to issue a public proclamation declaring to all persons the existence of such state of emergency, and in order to more effectively protect the lives and property of people within the city, to place in effect any or all of the restrictions hereinafter authorized.

(C) The Mayor is hereby authorized and empowered to limit, by the proclamation, the application of all or any part of such restrictions to any area specifically designated or described within the town limits 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.

(1997 Code, § 10-32)

### **§ 36.02 PROCLAMATION; IMPOSING PROHIBITIONS AND RESTRICTIONS.**

(A) The Mayor, by proclamation, may impose the prohibitions and restrictions specified in §§ 36.03 through 36.05, inclusive, in the manner described in those sections. The Mayor may impose as many of those specified prohibitions and restrictions as he or she finds are necessary, because of an emergency, to maintain an acceptable level of public order and services, and to protect lives, safety and property. The Mayor shall recite his or her findings in the proclamation.

(B) The proclamation shall be in writing. The Mayor shall take reasonable steps to give notice of the terms of the proclamation to those affected by it and shall post a copy of it in

the town hall. The Mayor shall send reports of the substance of the proclamation to the mass communications media which serves the affected area. The Mayor shall retain a text of the proclamation and furnish upon request certified copies of it for use as evidence.

(1997 Code, § 10-33)

### **§ 36.03 EVACUATION PROCEDURE.**

The Mayor may direct and compel evacuation of all or part of the population of the town, to prescribe routes, modes of transportation, and destination in connection with evacuation; and to control ingress and egress of a disaster area, the movement of persons within the area, and the occupancy of premises therein. Details of the evacuation may be set forth or amended in a subsequent proclamation, which shall be well publicized.

(1997 Code, § 10-34)

### **§ 36.04 CURFEW.**

(A) The proclamation may impose a curfew prohibiting, in certain areas and during certain periods, the appearance in public of anyone who is not a member of an exempted class. The proclamation shall specify the geographical area or areas and the period during each 24-hour day to which the curfew applies. The Mayor may exempt from some or all of the curfew restrictions classes of people whose exemption the Mayor finds necessary for the preservation of the public health, safety and welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

(B) Unless otherwise specified in the proclamation, the curfew shall apply during the specified period each day until the Mayor by proclamation removes the curfew.

(1997 Code, § 10-35)

### **§ 36.05 CERTAIN ACTIVITIES PROHIBITED OR RESTRICTED DURING STATE OF EMERGENCY.**

(A) The proclamation referred to in § 36.02 may prohibit the possession or consumption of any alcoholic beverage, including beer, wine and spirituous liquor other than on one's own premises and may prohibit the transfer, transportation, sale or purchase of any alcoholic beverage within the area of the town described in the proclamation. The prohibition, if imposed, may apply to transfers of alcoholic beverages by employees of alcoholic beverage control stores as well as by anyone else within the geographical area described.

(B) The proclamation may prohibit the transportation or possession off of one's own premises, or the sale or purchase of any dangerous weapon or substance. The Mayor may exempt from some or all of the restrictions classes of people whose possession, transfer or transportation of certain dangerous weapons or substances is necessary to the preservation of the public's health, safety or welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

(C) The term *DANGEROUS WEAPON OR SUBSTANCE* means:

(1) Any deadly weapon, ammunition, explosive, incendiary device, radioactive material or device as defined in G.S. § 14-288.8(c)(5), gasoline, or other instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property;

(2) Any other instrument or substance that is capable of being used to inflict serious bodily injury or destruction of property, when the circumstances indicate that there is some probability that such instrument or substance will be so used; and

(3) Any part or ingredient in any instrument or substance included in divisions (C)(1) and (C)(2) above when the circumstances indicate a probability that such a part or ingredient will be so used.

(D) If imposed, the restriction shall apply throughout the jurisdiction of the town or such part thereof as designated in the proclamation.

(E) The proclamation may prohibit obtaining access or attempting to obtain access to any area, designated in the manner described in this section, in violation of any order, clearly posted notice or barricade indicating that access is denied or restricted.

(F) Areas to which access is denied or restricted shall be designated by the Chief of Police and his or her subordinates when directed in the proclamation to do so by the Mayor. When acting under this authority, the Chief of Police and his or her subordinates may restrict or deny access to any area, street, highway or location within the town if that restriction or denial of access or use is reasonably necessary to promote efforts being made to overcome the emergency or to prevent further aggravation of the emergency.

(G) Movements of people in public places may be restricted.

(H) The operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate may be restricted.

(I) Other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency within the area designated in the proclamation may be restricted.

(1997 Code, § 10-36)

### **§ 36.06 REMOVAL OF PROHIBITIONS AND RESTRICTIONS.**

The Mayor shall by proclamation terminate the entire declaration of emergency or remove the prohibitions and restrictions as the emergency no longer requires them, or when directed to do so by the Board of Commissioners.

(1997 Code, § 10-37)

### **§ 36.07 SUPERSEDING AND AMENDATORY PROCLAMATIONS.**

The Mayor, in his or her discretion, may invoke the restrictions authorized by this chapter in separate proclamations, and may amend any proclamation by means of a superseding proclamation in accordance with the procedures set forth in § 36.02.

(1997 Code, § 10-38)

**§ 36.08 TERMINATION OF PROCLAMATION.**

Any proclamation issued under this chapter shall expire 5 days after its last imposition unless sooner terminated in writing under the same procedures set forth in § 36.02 for proclamations.  
(1997 Code, 10-39)

**§ 36.09 IN CASE OF ABSENCE OR DISABILITY OF MAYOR.**

In case of the absence or disability of the Mayor, the Mayor Pro Tem, or such other person as may be designated by the Board of Commissioners, shall have and exercise all of the powers herein given the Mayor.  
(1997 Code, § 10-40)

**§ 36.10 MOTOR VEHICLE REGISTRATION.**

(A) *Automobile identification decals.*

(1) Each resident and property owner shall register with the Police Department every motor vehicle kept in the town any part of 15 or more days within a calendar year. The Police Department will issue a decal to each vehicle so registered. The purpose of the decal is to identify residents and property owners in the event of evacuation and reentry into the town in connection with a declaration of emergency.

(2) Registration for motor vehicles then subject to registration shall be completed on or before February 15, 1993.

(3) Each motor vehicle shall be registered by its owner within 30 days after it is subject to registration.

(4) Persons who are employed within the town limits, but who neither reside in nor own property in the town, may register their vehicles according to this section at any time prior to a declaration of emergency. If such person chooses to register his or her vehicle, he or she shall comply with and be subject to all provisions of this section.

(5) There will be no charge for registration or issuance of the decals.

(B) *Display of decals.* Decals will be displayed in the left bottom corner of the front windshield of the vehicle for which it was issued, except that the decal will be displayed on the front fender of 2-wheel motor vehicles.

(C) *Replacement of and removal of decals.*

(1) In the event a decal issued for a motor vehicle under this section is destroyed, the owner of such vehicle must apply for a new decal with the Police Department within 15 days after the destruction of the previous decal.

(2) Residents who move from the town, property owners who sell their property, and persons who register their vehicles by reason of employment within the town but who leave such employment, will remove all decals issued pursuant to this section within 15 days and will report such action to the Police Department.

(D) *Reentry without decal prohibited.* Vehicles that do not display the identification decal will not be permitted to reenter the town after an evacuation ordered until ownership can be verified or until the emergency is declared ended.

(E) *Unlawful use of decal is prohibited.* No person shall display or cause or permit to be displayed or have in his or her possession any decal issued under this section knowing the same to be fictitious or invalid or to have been canceled, revoked, suspended, nullified or altered; and no person shall willfully display any decal that is not valid and current. It shall be unlawful for any person to give, lend, sell or obtain a decal for any purpose other than as authorized in this section and for any purpose other than in connection with vehicles for which the decal was issued.

(1997 Code, § 10-41)

### **§ 36.11 PROCLAMATION FORMS.**

The following forms shall be used to proclaim and terminate a municipal state of emergency:

(A) *Municipal state of emergency.*

#### **PROCLAMATION OF A MUNICIPAL STATE OF EMERGENCY**

*Section 1.* Pursuant to Town Ordinance \_\_\_\_\_ and Chapter 166A and § 14-288 of the North Carolina General Statutes, I have determined that a State of Emergency, as defined in Town Ordinance \_\_\_\_\_, exists in the Town of Cape Carteret.

*Section 2.* I, therefore, proclaim the existence of a State of Emergency in the Town of Cape Carteret.

*Section 3.* I hereby order all town law enforcement officers and employees and all other emergency management personnel subject to my control to cooperate in the enforcement and implementation of the provisions of the town emergency ordinances which are set forth below.

*Section 4.* Evacuation. I have determined that, in the best interest of public safety and protection, it is necessary to evacuate the civilian population from the Town of Cape Carteret. Citizens are free to use any type of transportation, but they are to use only \_\_\_\_\_ in leaving the town. Evacuation is to occur as soon as possible. Further proclamation concerning evacuation will be issued as needed.

*Section 5.* Curfew. Unless one is a member of the town's law enforcement agency or the emergency management program, every person who is located within a \_\_\_\_\_ radius of \_\_\_\_\_ is to be inside a house or dwelling from the hours of \_\_\_\_\_ to \_\_\_\_\_.

*Section 6.* No Alcoholic Beverages. There shall be no sale, consumption, transportation or possession of alcoholic beverages during the State of Emergency in the Town of Cape Carteret.

*Section 7.* No Firearms, Ammunition or Explosives. During the State of Emergency, there shall be no sale or purchase of any type of firearm or ammunition or any possession of such items along with any type of explosive off of owner's own premises.

*Section 8.* Execution of Emergency Plan. All civilians and emergency management personnel are ordered to comply with the emergency reaction plan.

*Section 9.* This proclamation shall become effective immediately.

Proclaimed this the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ [a.m/p.m.].

\_\_\_\_\_  
Mayor/Town of Cape Carteret

(B) *Terminating a municipal state of emergency.*

**PROCLAMATION TERMINATING A MUNICIPAL STATE OF EMERGENCY**

*Section 1.* On \_\_\_\_\_ at \_\_\_\_\_ [a.m./p.m.], I determined and proclaimed a local State of Emergency for the Town of Cape Carteret.

*Section 2.* On \_\_\_\_\_, at \_\_\_\_\_ [a.m./p.m.], I ordered the evacuation of all civilians from the area, imposed a curfew, prohibited alcoholic beverages, firearms, ammunition and explosives and ordered the execution of the emergency reaction plan.

*Section 3.* I have determined that a State of Emergency no longer exists in the Town of Cape Carteret.

*Section 4.* I thereby terminate the proclamation of a local State of Emergency and all of the restrictions and orders therein.

*Section 5.* This proclamation is effective immediately.  
Proclaimed this the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ [a.m./p.m.]

\_\_\_\_\_  
Mayor/Town of Cape Carteret  
(1997 Code, § 10-42)

**§ 36.99 PENALTY.**

(A) Any violation of any provision of §§ 36.01 *et seq.* other than those provisions in § 36.10 shall subject the violator to a civil penalty in the sum of \$25 per day.

(B) A citation for the civil penalty shall be issued by the Police Department or the Town Building Inspector.

(C) Each citation for a civil penalty must be paid within 72 hours of issuance.

(D) For violations of § 36.10, the following penalties shall apply:

(1) If any person shall display or cause or permit to be displayed or have in his or her possession any decal issued under § 36.10 for purposes of reentering the town in connection with a declaration of emergency with knowledge that such decal is fictitious, invalid, canceled, revoked, suspended, nullified or altered, such person shall be guilty of a general misdemeanor.

(2) Any other violation of any provision of § 36.10 shall subject the violator to a civil penalty in the sum of \$5 per day. A citation for the civil penalty must be issued by the Police Department. Each citation for a civil penalty must be paid within 72 hours of issuance.

(E) Each day that the violator continues any violation in this chapter shall be a separate and distinct offense.

(1997 Code, § 10-31)

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**CHAPTER 37: PERSONNEL**

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Section

37.01 Adoption by reference

**§ 37.01 ADOPTION BY REFERENCE.**

(A) The Board of Commissioners hereby adopts as its personnel policy the provisions of former Chapter 24 of the code of ordinances of the Town of Cape Carteret.

(B) The Town Clerk or the Clerk's designee is hereby authorized to renumber the provisions of former Chapter 24 of the code in any reasonable manner to facilitate its use by the town and its employees.

(Res. passed 10-21-2002)

(C) A copy of the personnel policy manual shall be on file in the office of the Town Clerk and is available for public inspection and copying.

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**CHAPTER 38: CHARTER AMENDMENTS**

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Section

- 38.01 Staggered terms for Board members
- 38.02 Competitive bidding procedures

**§ 38.01 STAGGERED TERMS FOR BOARD MEMBERS.**

Section 4 of the Charter is hereby amended as follows: Except as otherwise provided in this Charter, all powers of the town shall be vested in a Board of Commissioners of 5 members and a Mayor nominated and elected from the town at large in the manner hereinafter provided. The term of office of the Mayor shall be for 4 years and until his or her successor is elected and qualified. At the regular election to be held in 2015, and every 4 years thereafter the Mayor shall be elected. Four members of the Board of Commissioners shall have staggered 4 year terms and 1 member shall have a 2 year term. At the regular municipal election to be held in 2001, the 2 candidates for Board of Commissioners who receive the highest number of votes shall be elected for 4 year terms, while the 3 candidates who receive the next highest number of votes shall be elected for 2 year terms. At the regular municipal election to be held in 2003, and every 2 years thereafter, 3 members of the Board of Commissioners shall be elected. The 2 candidates who receive the highest number of votes will serve 4 year terms and the candidate who receives the next highest number of votes will serve a 2 year term. The Mayor and the Board of Commissioners shall take office at the end of the business session of the first regularly scheduled meeting of the Board of Commissioners following the election. If a vacancy occurs in the office of Mayor or Commissioner, it shall be filled for the remainder of the unexpired term by a majority vote of the remaining members of the Board of Commissioners. The Mayor and the members of the Board of Commissioners shall be qualified electors of the town. A member of the Board of Commissioners or the Mayor ceasing to possess any of the qualifications specified in this section, or convicted of crime while in office, shall immediately forfeit his or her office. (Ord. passed 4-16-2001; Am. Ord. 2013-02, passed 8-19-2013)

***Cross-reference:***

*Terms for Board members, see Charter, § 4*

**§ 38.02 COMPETITIVE BIDDING PROCEDURES.**

Section 18 of the Charter is hereby amended as follows:

(A) G.S. § 143-131, as amended since the chartering of the Town of Cape Carteret sets out purchase procedures with the amount limitations substantially different from those contained in the Charter § 18.

(B) The Board of Commissioners of the Town of Cape Carteret desire to clarify their intent that the town's officers, agents and employees conform all of the town's purchasing procedures to the provisions of general state law as that law presently exists or as it may be amended from time to time and not the antiquated Charter provisions from almost 50 year ago.

(C) The Board of Commissioners of the Town of Cape Carteret recognizes the superseding effect of the provisions of G.S. § 143-131 over the provisions of the Charter § 18; and that the town's purchasing procedures shall hereafter be those set out in G.S. § 143-131 and G.S. § 143-129 and other applicable provisions of state law as they now exist or as they may from time to time be amended or recodified.

(Res. passed 1-17-2005)

***Cross-reference:***

*Competitive bidding procedures, see Charter, § 18*

**TITLE V: PUBLIC WORKS**

Chapter

**50. GARBAGE AND REFUSE**

**CHAPTER 50: GARBAGE AND REFUSE**

Section

***General Provisions***

- 50.01 Littering
- 50.02 Maintenance of public area
- 50.03 Receptacles

***Collection and Disposal***

- 50.15 Definition
- 50.16 Prompt removal of garbage required
- 50.17 Containers
- 50.18 Placement of containers
- 50.19 Disposal of wet garbage
- 50.20 Deposit of garbage in public places and on private property
- 50.21 Removal of dead animals
- 50.22 Charges for collection
- 50.23 Yard debris pick-up

## GENERAL PROVISIONS

### § 50.01 LITTERING.

(A) *Littering on public and private property.* It shall be unlawful for any person to throw or deposit upon any street or sidewalk, or upon any private property, except with written permission of the owner or occupant of such private property, any trash, refuse, garbage, building material, cans, bottles, broken glass, paper, or any type of litter.

(B) *Littering from vehicles.* It shall be unlawful for any person, while a driver or a passenger in a vehicle, to throw or deposit litter upon any street or other public place within the town or upon private property.

(1997 Code, § 32-1) Penalty, see § 10.99

### § 50.02 MAINTENANCE OF PUBLIC AREA.

Every owner, lessee, tenant, occupant or person in charge of any commercial establishment or premises which maintains any paved or unpaved areas for the use of the public, either for parking or as access area and incident to the carrying on of the principal business of any such commercial establishment or premises, and which parking or access areas abut or lie within 10 feet of any public street or other public way, shall keep and maintain the areas clean and free from trash, litter, rubbish and any materials liable to be blown, deposited or cast upon the street or other public way.

(1997 Code, § 32-2)

### § 50.03 RECEPTACLES.

Suitable receptacles shall be provided in all parking or access areas within the meaning of § 50.02. The receptacles shall be plainly marked and constructed to prevent scattering of any trash, litter, rubbish or other material deposited therein.

(1997 Code, § 32-3)

## COLLECTION AND DISPOSAL

### § 50.15 DEFINITION.

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

**GARBAGE.** All refuse, animal, fruit and other vegetable matter, all tin cans, crockery and glassware in which any such matter has been put up or stored, and all rags, wastepaper, floor sweepings and other combustible refuse, except building material scraps and tree trimmings. This definition excludes human and animal waste.

(1997 Code, § 32-31)

**§ 50.16 PROMPT REMOVAL OF GARBAGE REQUIRED.**

No garbage that has become decayed or that shall otherwise be a menace to health or cleanliness shall be allowed to remain in any dwelling house, hotel, boardinghouse, café, restaurant, lunch stand, fruit stand, meat market, store or other building, or on any premises for a longer time than shall be reasonably necessary to remove and deposit the same in a can as provided in § 50.17.

(1997 Code, § 32-32) Penalty, see § 10.99

**§ 50.17 CONTAINERS.**

The occupant of every building, premises or place where garbage does or may exist shall provide himself or herself with a garbage can made of substantial nonrusting material in which he or she shall deposit all garbage existing at the place occupied by him or her. The can shall be provided with handles or bales and with a tightfitting cover made of the same material as the can. All garbage cans shall be watertight. Garbage cans shall be of a size that would be conveniently handled by the garbage collector, not to exceed in holding capacity more than the size noted in the current contract with the town's waste collection contractor. All garbage cans shall be placed so that they can be conveniently reached by the garbage collector. No garbage can shall be placed, kept or left on any street, alley or public way for any purpose whatsoever. All garbage cans shall be kept reasonably clean.

(1997 Code, § 32-33) (Am. Ord. 2013-12-04, passed 12-9-2013)

**§ 50.18 PLACEMENT OF CONTAINERS.**

(A) Garbage cans or similar containers containing garbage and trash for removal shall be placed on the premises from which the same are to be removed at or before 7:30 a.m. on the day scheduled for removal.

(B) Garbage cans shall be removed from the streetside on the same day as pickup.

(1997 Code, § 32-34)

**§ 50.19 DISPOSAL OF WET GARBAGE.**

All wet garbage shall have the liquid drained off and shall be wrapped in paper or other combustible material before it is placed in the garbage can, thus preventing smell and the breeding of flies in summer and freezing and adhesion to the can in winter.

(1997 Code, § 32-35)

**§ 50.20 DEPOSIT OF GARBAGE IN PUBLIC PLACES AND ON PRIVATE PROPERTY.**

No person shall throw, place or deposit any garbage in any street, alley, public place or private property within the city limits, except in garbage cans or garbage vehicles as provided in this chapter.

(1997 Code, § 32-36)

**§ 50.21 REMOVAL OF DEAD ANIMALS.**

Dead animals will be removed by the town at any time.

(1997 Code, § 32-37)

**§ 50.22 CHARGES FOR COLLECTION.**

There shall be an annual fee as determined by the Board of Commissioners for each trash or garbage pickup point of each user of the trash and garbage pickup service provided by the town. The annual fee shall be paid in advance on or before August 1 of each fiscal year.

(1997 Code, § 32-38)

**§ 50.23 YARD DEBRIS PICK-UP.**

From time to time the Town will schedule pick-up of yard debris from occupied residential lots. Occupied residential lots shall include lots with existing homes and lots where homes are under construction at the time of the yard debris pick-up. Yard debris shall not be bagged. Yard debris shall not have limbs longer than six feet or greater than six inches in diameter. Yard debris piles may be placed in the street rights-of-way (ROW) for pick-up ten (10) days prior to the scheduled pick-up date. Any piles placed in the ROW after the pickup service has been conducted must be removed by the property owner for disposal. At the lot owner's request, debris piles in violation of this ordinance will be disposed of by the town after first paying a \$200 disposal fee per truckload. Debris piles placed in the ROW more than ten (10) days before the scheduled pick-up date or remaining in the ROW one (1) day after the pickup date or if any other violation of this section occurs then the offender will be subject to a fine in-accordance with § 93.99.

(Ord. 2017-02-01, passed 2-20-2017) (Ord. 2019-03-02, passed 3-11-2019)

**TITLE VII: TRAFFIC CODE**

Chapter

**70. GENERAL PROVISIONS**

**71. TRAFFIC RULES**

- 72. STOPPING, STANDING AND PARKING
- 73. TRAFFIC SCHEDULES
- 74. PARKING SCHEDULES
- 75. GOLF CARTS ON PUBLIC STREETS

## CHAPTER 70: GENERAL PROVISIONS

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### Section

#### *General Provisions*

- 70.01 Definitions
- 70.02 Obedience to police or fire official required
- 70.03 Authorized emergency vehicles
- 70.04 Authority of police in emergencies
- 70.05 Automobile decals required

#### *Administration and Enforcement*

- 70.15 Obedience required; when signs required for enforcement
- 70.16 Display of unauthorized signs, signals or markings
- 70.17 Interference with official traffic control devices

## GENERAL PROVISIONS

### § 70.01 DEFINITIONS.

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

**ALLEY.** A thoroughfare through the middle of a block.

**AUTHORIZED EMERGENCY VEHICLE.** Vehicles of the Fire Department, police vehicles, and ambulances and emergency vehicles of municipal departments or public service corporation as are designated or authorized by the Chief of Police.

**BICYCLE.** Every device propelled by human power upon which any person may ride, having 2 tandem wheels either of which is over 20 inches in diameter.

**BLOCK.** A portion of any street located between any 2 intersections of any 2 streets or public alleyways next adjacent to each other.

**COMMERCIAL MOTOR VEHICLE.** A motor vehicle designed or used to transport passengers or property as defined in G.S. § 20-4.01(3)(d).

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

**CURB LOADING ZONE.** A space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

**DRIVER.** The operator of a vehicle. The terms **DRIVER** and **OPERATOR** and their cognates are synonymous.

**FREIGHT CURB LOADING ZONE.** A space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight or passengers.

**INTERSECTION.**

(1) The area embraced within the prolongation of the lateral curblines; or, if none, then the lateral edge of roadway lines of 2 or more highways which join one another at any angle whether or not 1 such highway crosses the other.

(2) Where a highway includes 2 roadways 30 feet or more apart, every crossing of each roadway of the divided highway by an intersecting highway shall be regarded as a separate intersection. If the intersecting highway also includes 2 roadways 30 feet or more apart, every crossing of 2 roadways of the highways shall be regarded as a separate intersection.

**LANED ROADWAY.** A roadway which is divided into 2 or more clearly marked lanes for vehicular traffic.

**MOTORCYCLE.** A vehicle having a saddle for the use of the rider and designed to travel on not more than 3 wheels in contact with the ground, including motor scooters and motor-driven bicycles, but excluding tractors and utility vehicles equipped with an additional form of device designed to transport property, 3 wheeled vehicles while being used by law enforcement agencies, and mopeds as defined in G.S. § 20-4.01(27)(d)(1).

**MOTOR VEHICLE.** Every vehicle which is self propelled and every vehicle designed to run upon the streets which is pulled by a self-propelled vehicle. This shall not include mopeds as defined in G.S. § 20-4.01(27)(d)(1).

**OFFICIAL TRAFFIC CONTROL DEVICE.** Any sign, signal, marking or device, not inconsistent with this title, placed or erected by authority of the governing body by a designated official having jurisdiction through authority given by the governing body, for the purpose of regulating, warning, prohibiting or guiding traffic upon the public streets and thoroughfares of the town.

**OFFICIAL TRAFFIC SIGNAL.** Any device, whether manually, electrically or mechanically operated, whereby traffic is alternately directed to stop and to proceed, or to turn, or to proceed with caution.

**PARK.** The standing of any vehicle, whether occupied or unoccupied, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading passengers or cargo.

**PASSENGER CURB LOADING ZONE.** A place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

**PEDESTRIAN.** Any person afoot.

**PERSON.** Every individual, firm, partnership, association, corporation, governmental agency, or combination thereof of whatsoever form or character.

**POLICE OFFICER.** Every peace officer of the town, including every employee of the town authorized and empowered to regulate traffic and to make arrests for any violations of the provisions of this title.

**PRIVATE ROAD OR DRIVEWAY.** Every road or driveway not open to the use of the public as a matter of right for the purpose of vehicular traffic.

**PUBLIC CONVEYANCE.** Any vehicle other than a taxicab or railroad train for transporting persons for a fare.

**RIGHT-OF-WAY.** The privilege of the immediate use of the street or roadway.

**ROADWAY.** That portion of a street or highway improved, designed or ordinarily used for vehicular travel, exclusive of the shoulder. In the event a highway includes 2 or more separate roadways, the term **ROADWAY** shall refer to any **ROADWAYS** separately but not to all **ROADWAYS** collectively.

**SIDEWALK.** That portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

**STANDING.** Any stopping of any vehicle, whether or not the vehicle is occupied during the period of stopping.

**STOP.** When required, the complete cessation of movement of any vehicle.

**STOP** or **STOPPING.** When prohibited, means any **STOPPING** of any vehicle, except when the **STOPPING** means that it shall be necessary to **STOP** the vehicle to avoid conflict with other traffic or in compliance with the direction of any peace officer of the town or by reason of any traffic control sign or signal or by reason of any emergency.

**STREET** and **HIGHWAY.** The entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purposes of vehicular traffic. The terms **STREET** and **HIGHWAY** and their cognates are synonymous.

**THROUGH HIGHWAY.** Every street or highway or portion thereof at the entrances to which vehicular traffic from intersecting streets or highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this title.

**TRAFFIC.** Pedestrians, ridden or herded animals, vehicles of all kinds, conveyances, tractors, bicycles, motorcycles and the like, either singly or together, while using any street or alleyway for travel, including the operation of, the loading or unloading of, or the parking of any vehicle upon any of the public streets of the town.

**VEHICLE.** Every device in, upon or by which any person or property is or may be transported or drawn upon streets excepting devices moved by human power or used exclusively upon fixed rails or tracks. For the purposes of this title, bicycles shall be deemed **VEHICLES**, and every rider of a bicycle upon a highway shall be subject to the provisions of this chapter applicable to the driver of a **VEHICLE** except those which by their very nature can have no application. This term shall not include a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, is suitable for use both inside and outside a building, and whose maximum speed does not exceed 12 mph when the device is being operated by a person with a mobility impairment.

(1997 Code, § 38-1)

## **§ 70.02 OBEDIENCE TO POLICE OR FIRE OFFICIAL REQUIRED.**

No person shall willfully fail or refuse to comply with any lawful order or direction of a Police Officer or Fire Department official.

(1997 Code, § 38-3) Penalty, see § 10.99

**§ 70.03 AUTHORIZED EMERGENCY VEHICLES.**

The provisions of this title regulating the operation, parking and standing of vehicles shall apply to authorized emergency vehicles except as provided under state law.  
(1997 Code, § 38-2)

**§ 70.04 AUTHORITY OF POLICE IN EMERGENCIES.**

(A) It shall be the duty of the officers of the Police Department to enforce all street traffic laws and all of the state vehicle laws applicable to street traffic.

(B) Officers of the Police Department are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws; provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the Police Department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(C) Officers of the Fire Department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.  
(1997 Code, § 38-4)

**§ 70.05 AUTOMOBILE DECALS REQUIRED.**

(A) Any motor vehicle regularly garaged or kept within the town shall be required to display a town decal.

(B) All residents of the town using a motor vehicle (except for 2-wheel vehicles) which is regularly garaged or kept within the town shall be required to apply for a town decal for that motor vehicle at the Police Department. When applying for a town decal, the resident shall be required to exhibit to the appropriate officer of the Police Department the motor vehicle registration card issued for the motor vehicle by the state and the police officer shall record the motor vehicle registration number opposite the name of the person to whom a town decal is issued.

(C) Town decals shall be prominently displayed on the front windshield of the motor vehicle for which the same was issued. Whenever a town decal is found being improperly used in violation of this section, the decal shall be revoked or cancelled; and a new town decal must be obtained and displayed on the motor vehicle before further operation of the motor vehicle within the town.

(D) No person shall display or cause or permit to be displayed or have in possession any town decal knowing the same to be fictitious or to have been cancelled, revoked, suspended, or altered. No person shall give, lend, or borrow any town decal for the purpose of using the decal on some motor vehicle other than that for which it was issued. It shall be unlawful for any person to give, lend, sell, or obtain a town decal for the purpose other than the use in connection with the motor vehicle for which the town decal was issued.

(E) Any new resident of the town shall apply for and obtain a town decal as provided for in this section within 30 days after becoming a resident of the town.

(F) Any person violating any of the provisions of this section shall be fined not more than \$50 or shall be imprisoned for not more than 30 days, or both. Each day that the violation continues shall be a separate offense.

(1997 Code, § 38-5) (Am. Ord. 98-01-01, passed 1-19-1998) Penalty, see § 10.99

## **ADMINISTRATION AND ENFORCEMENT**

### **§ 70.15 OBEDIENCE REQUIRED; WHEN SIGNS REQUIRED FOR ENFORCEMENT.**

(A) Any person failing or refusing to comply with the directions indicated on any sign, marker or device for the control or direction of traffic, erected or placed in accordance with the provisions of this chapter, when so placed or erected, shall be guilty of a violation. This section shall not be construed to apply when the driver of a vehicle is otherwise directed by a police officer or when an exception is granted to the driver of an authorized emergency vehicle under § 70.04.

(B) No provisions of this title for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in proper position and sufficiently legible to an ordinarily observant person.

(1997 Code, § 38-31)

### **§ 70.16 DISPLAY OF UNAUTHORIZED SIGNS, SIGNALS OR MARKINGS.**

(A) No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic control device, sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device, sign or signal.

(B) No person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.

(1997 Code, § 38-32) Penalty, see § 10.99

### **§ 70.17 INTERFERENCE WITH OFFICIAL TRAFFIC CONTROL DEVICES.**

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down or remove any official traffic control device, sign or signal or any inscription, shield or insignia thereon, or any other part thereof.

(1997 Code, § 38-33) Penalty, see § 10.99

## **CHAPTER 71: TRAFFIC RULES**

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Section

- 71.01 Authority to erect stop signs
- 71.02 Vehicles to stop at stop signs
- ~~71.03 Vehicles approaching yield signs~~
- 71.04 Trucks required to follow routes
- 71.05 Trucks prohibited on certain streets
- ~~71.06 Signs to be posted~~

**§ 71.01 AUTHORITY TO ERECT STOP SIGNS.**

~~— (A) — Whenever any ordinance designates and describes a through street, there shall be a stop sign on every street intersecting the through street or intersecting portion thereof, described and designated as such by any ordinance, unless traffic at any intersection is controlled at all times by traffic control signals. At the intersection of 2 through streets or at the intersection of a through street and a heavy traffic street not so designated, stop signs shall be erected at the approaches of either of the streets.~~

~~— (B) — Every sign erected pursuant to this section shall bear the word STOP in letters not less than 8 inches in height; and the signs shall at nighttime be rendered luminous by steady or flashing internal illumination, or by a fixed floodlight projected on the face of the sign, or by efficient reflecting elements on the face of the sign. Every stop sign shall be located as near as practicable at the nearest line of the crosswalk on the side of the intersection or, if none, at the nearest line of the roadway.~~

**The Town of Cape Carteret will erect and maintain stop signs at the intersections of streets located throughout the Town at the discretion of the Town Manager. All vehicles traveling on Town roadways must come to a complete stop based on the signage at these locations and in conformance with the applicable traffic laws of the State of North Carolina and the applicable provisions of the North Carolina General Statutes.**

(1997 Code, § 38-63)

**§ 71.02 VEHICLES TO STOP AT STOP SIGNS.**

(A) Except when directed to proceed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection, ~~as described in Schedule II of Chapter 73,~~ shall stop before entering the crosswalk on the near side of the intersection, or, if there is no crosswalk, shall stop at a clearly marked stop line, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

(B) The driver having stopped in obedience to a stop sign at an intersection shall proceed cautiously, yielding the right-of-way to all vehicles not so obliged to stop which are approaching the intersection.

(1997 Code, § 38-65)

~~**§ 71.03 VEHICLES APPROACHING YIELD SIGNS.**~~

~~—— (A) — The driver of a vehicle approaching a yield sign erected at those intersections described in the Schedule IV of Chapter 73 shall, in obedience to the sign, slow down and yield the right of way to any pedestrian crossing the roadway on which he or she is driving and to any vehicle in movement on the main traveled or through highway or street which he or she is approaching so as to arrive at the intersection at approximately the same time as the vehicle entering the main traveled or through street or highway.~~

~~—— (B) — The driver of the vehicle approaching a yield sign, if required to stop, shall stop before entering the crosswalk on the near side of the intersection; or in the event there is no crosswalk, at a clearly marked stopline; but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.~~

~~—— (C) — In accordance with divisions (A) and (B) above, and when signs are erected giving notice thereof, drivers of vehicles, when entering designated or main traveled or through streets from intersecting streets in the direction shown, shall yield the right of way to approaching pedestrians or vehicles.~~

~~(1997 Code, § 38-66)~~

#### **§ 71.04 TRUCKS REQUIRED TO FOLLOW ROUTES.**

All trucks and tractor-trailer trucks having a capacity of 2 tons or more entering the town, destined to a point outside the town and not taking on or discharging any goods, wares or merchandise within the town limits, shall travel exclusively on the truck routes established in § 71.05, and over that part of those routes as shall constitute the shortest and most direct route between the point of entrance into and the point of departure from the town.

(1997 Code, § 38-67)

#### **§ 71.05 TRUCKS PROHIBITED ON CERTAIN STREETS.**

All trucks and tractor-trailer trucks having a capacity of 2 or more tons are hereby prohibited from all other streets or parts of streets, except that the trucks may travel on streets or parts of streets when necessary to load or unload commodities at a destination upon the streets.

(1997 Code, 38-69)

#### **~~§ 71.06 SIGNS TO BE POSTED.~~**

~~—— The Street Commissioner is hereby directed to post and maintain at all points where truck routes enter the town and junction points and turns where necessary, and at all approaches to the streets or parts of streets on which trucks are prohibited, appropriate signs directing truck traffic in accordance with this chapter.~~

~~(1997 Code, § 38-70)~~

## **CHAPTER 72: STOPPING, STANDING AND PARKING**

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Section

- 72.01 Vehicles not to obstruct passage of other vehicles
- 72.02 Stopping, standing or parking prohibited in certain places
- 72.03 Parking prohibited for certain purposes

**§ 72.01 VEHICLES NOT TO OBSTRUCT PASSAGE OF OTHER VEHICLES.**

(A) No person shall park any vehicle upon a street in a manner or under any conditions as to leave available less than 10 feet of the width of the roadway for free movement of vehicular traffic.

(B) No person shall park a vehicle within an alley in a manner or under any conditions as to leave available less than 10 feet of the width of the roadway for the free movement of vehicular traffic; and no person shall stop, stand or park a vehicle within an alley, in a position as to block the driveway entrance to any abutting property.

(1997 Code, § 38-96) Penalty, see § 10.99

**§ 72.02 STOPPING, STANDING OR PARKING PROHIBITED IN CERTAIN PLACES.**

(A) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic control device, in any of the following places:

- (1) On a sidewalk or multi-use path;
- (2) In front of a public driveway;
- (3) Within an intersection;
- (4) On a crosswalk;
- (5) Within 30 feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway;
- (6) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone unless signs or markings indicate a different length;
- (7) Within 50 feet of the nearest rail of a railroad crossing;
- (8) Within 30 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance (when properly signposted);
- (9) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
- (10) On a roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (11) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
- (12) At any place where official signs prohibit stopping;
- (13) Overnight on any town street or right of way; and
- (14) Within any area within the corporate limits of the town which has been designated as a no parking area by the erection of NO PARKING signs authorized by the Town

Manager. Where NO PARKING signs appear within the town, it shall be presumed that the signs were erected and are maintained in accordance with the direction of the Town Manager, such authority delegated by the Board of Commissioners. The Town Clerk shall maintain a list of all NO PARKING sign locations within the town.

(B) No person shall move a vehicle not lawfully under his or her control into any prohibited area or away from a curb any distance as is unlawful.

(C) It shall be unlawful for any motor vehicle, any trailer or any mobile home to be left upon, at or within 200 feet of the end of any street within the corporate limits of the town which street terminates at or near any body of water.

(1997 Code, § 38-97) Penalty, see § 10.99

(D) No person shall stop, stand, sit, fish, cast nets, hunt, park, or otherwise obstruct any portion of the NCDOT right-of-way, the Cape Carteret Trail, and the elevated Cape Carteret Trail walkway within the area lying within the NCDOT right-of-way between the main entrance to White Oak Elementary School and the intersection of Channel View Court and Highway 24. (1.10.2022)

(1997 Code, § 38-97) Am. Ord. 1.10.2022; Am. Ord 2.13.2023 Penalty, see § 10.99

### **§ 72.03 PARKING PROHIBITED FOR CERTAIN PURPOSES.**

(A) It shall be unlawful for any person to stand or park a vehicle upon any street of the town for the principal purposes of:

(1) Displaying for sale;

(2) Washing, greasing or repairing the vehicle, except repairs made necessary by a bona fide emergency;

(3) Storing by garages, dealers or other persons when the storing is not incident to the bona fide use and operation of the automobile or other vehicle; and

(4) Storing of any detached trailer or van when the towing unit has been disconnected or for the purpose of transferring merchandise or freight from 1 vehicle to another.

(B) No person shall stand or park on any street any vehicle for the primary purpose of advertising.

(1997 Code, § 38-98) Penalty, see § 10.99

## **CHAPTER 73: TRAFFIC SCHEDULES**

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### Schedule

- I. Through streets designated
- ~~II. Intersections where stop required~~
- III. Speed limits
- ~~IV. Yielding intersections~~
- V. Establishment of truck routes

**SCHEDULE I. THROUGH STREETS DESIGNATED.**

Those streets and parts of streets described in this schedule are declared to be through streets for the purpose of this section.

<i>Through Streets</i>
Anita Forte Drive
Bayshore Drive
Bogue Sound Drive
Bonita Street
Channel View Court
Dolphin Street
Easy Street
Lejeune Road
Live Oak Drive
Manatee Street
Pine Lake Road
Star Hill Drive
Yaupon Drive

(1997 Code, § 38-62)

**~~SCHEDULE II. INTERSECTIONS WHERE STOP REQUIRED.~~**

~~—The Board of Commissioners may determine and designate intersections where a particular hazard exists upon other than through streets and may determine whether vehicles shall stop at 1 or more entrances to any stop intersection, and shall erect a stop sign at every place where a stop is required. The following streets are designated as stop intersections, requiring all vehicles to stop before entering the intersections:~~

<i>Stop Required Intersections</i>	
Bayshore Park Subdivision	Bayshore and Park Avenue (4 way)
	Club Court and Bogue Sound Drive
	Easy Street and Park Avenue
	Edgewater Court and Bayshore Drive
	Edgewater Court and Bogue Sound Drive
	Edgewater Court and Easy Street
	Edgewater Court and Live Oak Drive
	Hunting Bay Drive and Bayshore Drive

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<i>Stop Required Intersections</i>	
	Lejeune Road and Edgewater Court
	Lejeune Road and Park Avenue
	Park Avenue and Bayshore Drive (4 way)
	Park Avenue and Bogue Sound Drive
	Park Avenue and Live Oak Drive
	W. B. McLean Drive and Bayshore Drive
	W. B. McLean Drive and Bogue Sound Drive
	W B. McLean Drive and Lejeune Road
Cape Carteret Subdivision	Anita Forte Drive and Neptune Drive
	Deer Creek Drive and Yaupon Drive
	Dolphin Street and Neptune Drive
	Holly Lane and Neptune Drive
	Kear Drive and Anita Forte Drive
	Kear Drive and Sound View Court
Cape Carteret Subdivision	Kear Drive and Yaupon Drive
	Loma Linda Court and Loma Linda Drive
	Loma Linda Drive and Anita Forte Drive
	Loma Linda Drive and Dolphin Street
	Manatee Street and Loma Linda Drive
	Manatee Street and Neptune Drive
	Neptune Court and Neptune Drive
	Neptune Drive and Bonita Street
	Sound View Drive and Anita Forte Drive
	W B. McLean Drive and Anita Forte Drive
	W B. McLean Drive and Manatee Street
	W. B. McLean Drive and Yaupon Drive
	Yaupon Drive and Loma Linda Drive
Country Club Point Subdivision	Channel View Court and Channel Drive
	Channel View Court and Club Point Drive
	Channel View Court and Quail Run
	Rock Court and Club Point Drive
	W. B. McLean Drive and Channel View Court

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<i>Stop Required Intersections</i>	
Fox Forest Subdivision	Fox Drive and Starlight Drive
	Robin Crescent Circle and Weeks Boulevard
	Robin Crescent Circle and Lousan Drive
Quailwood Subdivision	Pine Lake Road and Quailwood Circle
	Quailwood Circle and Quailwood Court at both ends
Star Hill Subdivision	Apollo Drive and Star Hill Drive
Star Hill Subdivision	Club House Drive and Star Hill Drive
	Middle Court and Star Hill Drive
	Pine Lake Road and Gemini Court
	Pine Lake Road and Gemini Drive
	Pine Lake Road and Star Hill Drive
	Pine Lake Road and Taylor Notion Road
	Quail Neck and Sutton Drive
	Star Hill Drive and Star Hill Drive
	Star Hill Drive and Weeks Boulevard
	Sutton Court and Sutton Drive
	Sutton Drive and Club House Drive
	Sutton Drive and Fairway Lane
	Taylor Notion Road and Star Hill Drive
	West Court and Star Hill Drive

(1997 Code, § 38-64) (~~Am. Ord. 99-05-05, passed 5-17-1999; Am. Ord. 99-08-07, passed 8-16-1999; Am. Ord. 2009-05, passed 3-16-09; Am. Ord. 2012-10-05, passed 10-15-2012~~)

**SCHEDULE III. SPEED LIMITS.**

(A) The town, with reference to streets that are not state highways, has hereby established those speed limits set forth more particularly in division (D) below, and has posted signs indicating those speed limits.

(B) Pursuant to the authority of G.S. § 20-141(f), it shall be unlawful to operate a vehicle in excess of the speeds listed in this section, upon the streets or portions of streets of the state highway system and those streets or portions of streets not a part of the state highway system.

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(C) Pursuant to the authority of G.S. § 20-141(f), it shall be unlawful to operate any vehicle on the following state highway system streets at speeds in excess of those speeds indicated in this division.

<i>Location</i>	<i>Miles per Hour</i>
N.C. 24 from 0.50 mile east of N.C. 58, eastward to a point 0.39 mile west of S.R. 1259 ( <u>Taylor Notion Road</u> ) (White Oak Elementary School zone from 30 minutes before to <u>15 minutes after school begins; and 15 minutes before school ends and thirty minutes after school ends on school days only</u> )	25
N.C. 24 from its intersection with N.C. 58 eastward to Rocky Run Creek	35
N.C. 24 from Rocky Run to the eastern corporate limit	45
N.C. 24 from S.R. 1259, eastward to the eastern corporate limit, approximately 0.13 mile east of S.R. 1220	45
N.C. 24 from a point 0.25 mile east of N.C. 58 and from thence eastward to the eastern corporate limits of the town (a point which is 0.05 mile east of S.R. 1259)	45
S.R. 1220 from the southern corporate limit to N.C. 24	35
S.R. 1259 from N.C. 24 to the northern corporate limit, approximately 0.85 mile north of N.C.	45

(D) It shall be unlawful to operate any vehicle on the following town streets at speeds in excess of those speeds indicated in this division.

<i>Location</i>	<i>Miles per Hour</i>
All town streets within the corporate limits	25

(1997 Code, § 38-61) (Am. Ord. 01-03-01, passed 3-19-2001) (Ord. 2017-08-01; passed 8-14-2017) Penalty, see § 10.99

**SCHEDULE IV. YIELDING INTERSECTIONS.**

— All vehicles shall yield the right of way at the following locations.

<i>Yield Street</i>	<i>Through Street</i>
Bogue Lane	Bonita Street
Bogue Lane	Manatee Street
Loma Linda Drive	Bonita Street

<i><del>Yield Street</del></i>	<i><del>Through Street</del></i>
<del>Star Hill Drive</del>	<del>Club House Drive</del>
<del>Yaupon Drive</del>	<del>Neptune Drive</del>

(1997 Code, § 38-66) (Ord. 2009-05, passed 3-16-2009)

**SCHEDULE V. ESTABLISHMENT OF TRUCK ROUTES.**

The streets or parts of streets set out in this section are hereby established as truck routes in the town.

<i>Street</i>	<i>Location</i>
Bayshore Drive	From the northern town limit to the northern entrance to the Hunting Bay Subdivision
Star Hill Drive	Where it intersects with Taylor Notion Road, just north of N.C. Highway 24E to where it intersects with Pine Lake Road

(1997 Code, § 38-68)

**CHAPTER 74: PARKING SCHEDULES**

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Schedule

- I. Stopping, standing or parking near hazardous or congested places

**SCHEDULE I. STOPPING, STANDING OR PARKING NEAR HAZARDOUS OR CONGESTED PLACES.**

(A) When official signs are erected at hazardous or congested places, no person shall stop, stand or park a vehicle in any designated place.

(B) No motor vehicle shall be parked on the traveled portion of, the shoulders of or any other portion of the following streets.

<i>Street</i>	<i>Location</i>	<i>Direction</i>
State Highway 24	From the intersection of Highway 24 with Manatee Street to its intersection with Anita Forte Dr.	Eastward
Manatee Street	From Hwy 24 down to Loma Linda Drive	South
Star Hill Drive	Along the right-of-way of Star Hill Drive between the intersection of Clubhouse Dr and	East to West

<i>Street</i>	<i>Location</i>	<i>Direction</i>
	Taylor Notion Rd	
Manatee Street	105 Feet North from the NW Corner of the intersection of Manatee St and Bogue Lane	North
Manatee Street	225 feet south from the SW corner of the Intersection of Manatee Street and Neptune Drive	South

(1997 Code, § 38-99) (Am. Ord. 2011-08-04, passed 8-15-2011) (Am. Ord. 2020-11-01, passed 11-9-2020)(Am. Ord. 2021-03-01, passed 3-8-2021)(Am. Ord. 12-12-2022) Penalty, see § 10.99

## **CHAPTER 75: GOLF CARTS ON PUBLIC STREETS**

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Section

- 75.01 Purpose, disclaimer, and assumption of risk
- 75.02 Definitions
- 75.03 Operation of golf carts permitted
- 75.04 Registration and permit requirements
- 75.05 Standards of operation
- 75.06 Penalties and remedies

### **§ 75.01 PURPOSE, DISCLAIMER, AND ASSUMPTION OF RISK.**

(A) *Purpose.* This chapter is adopted under the authority of G.S. § 160A-300.6, which authorizes municipalities to permit and regulate the operation of golf carts on public streets, roads, and highways where the speed limit is 35 mph or less or on property owned or leased by the municipality. The purpose of this chapter is to provide a means of travel that is convenient, cost-effective, and energy efficient. In order to promote the safety of drivers, passengers, and the general public in the town, the operation of golf carts must comply with applicable state laws and regulations pertaining to the operation of traditional motor vehicles, and must also comply with the specific provisions included in this chapter.

(B) *Disclaimer.* Golf carts are not designed for nor manufactured to be used on public streets and the town neither advocates nor endorses the golf cart as a safe means of travel on public streets, roads, and highways. The town shall in no way be liable for accidents, injuries, or deaths involving or resulting from the operation of a golf cart.

(C) *Assumption of risk.* Any person who owns, operates, or rides on a golf cart on a public street, road, or highway within the town does so at his or her own risk and peril and assumes all liability resulting from the operation of the golf cart.  
(Ord. 2011-08-03, passed 8-15-2011)

**§ 75.02 DEFINITIONS.**

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

**GOLF CART.** A vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 mph.

**OPERATE.** To drive, or be in physical control of a golf cart that is moving or has its key inserted and in the on position.

**TOWN.** The Town of Cape Carteret.  
(Ord. 2011-08-03, passed 8-15-2011)

**§ 75.03 OPERATION OF GOLF CARTS PERMITTED.**

(A) *Permitted.* The operation of golf carts on the public streets, roads and highways with a posted speed limit of 35 mph or less within the town and on property owned or leased by the town in compliance with the provisions of this chapter shall be permitted. However, it shall be unlawful to operate any golf cart that is not properly registered with and permitted by the town or to operate any golf cart at any place or in any manner not authorized herein.

(B) *Exceptions.* The operation of golf carts in the following circumstances is not subject to the provisions of this chapter:

(1) The operation of golf carts on private property, with the consent of the owner;

(2) The operation of golf carts within private, gated, or limited access communities, unless the streets of the community are dedicated for public use and maintained by the town;

(3) The use of a golf cart in connection with a parade, a festival, or other special event provided the consent of the sponsor is obtained, the Police Department is notified, and provided the golf cart is only used during such event; and

(4) The use of golf carts by town personnel, other governmental agencies, and/or public service agencies on official business.

(5) The use of golf carts at Star Hill Golf Course, including designated road crossings.

(Ord. 2011-08-03, passed 8-15-2011) Penalty, see § 75.99

**§ 75.04 REGISTRATION AND PERMIT REQUIREMENTS.**

(A) *Registration and permit required.* No golf cart may be operated on any public street, road, or highway within the town or on any property owned or leased by the town unless the golf cart has first been registered with the town and permitted as required herein. The registration and permit shall be renewed annually thereafter in accordance with the provisions of this chapter.

(B) *Application and permit.* The owner shall complete an application provided by the town and the golf cart shall be inspected by designated town staff for compliance with the provisions of this chapter prior to the issuance of an annual permit for the golf cart. To evidence

the registration, the owner shall be issued a unique license plate and annual registration decal which shall be displayed on the rear of the golf cart. The Board of Commissioners may establish, and amend from time to time, an annual registration fee for golf carts which will be included in the schedule of fees maintained on file in the town hall.

(C) *Basic requirements.* In order to register a golf cart and secure an annual permit, the owner and golf cart must meet the following basic requirements:

- (1) The owner must be at least 16 years old and possess a valid state driver's license;
  - (2) The owner must possess and maintain liability insurance in an amount not less than required by state law for traditional motor vehicles operated on a public highway in the state;
  - (3) The golf cart must be registered to a physical address in the town;
  - (4) The golf cart must not have been modified to exceed a speed of 20 mph;
- and
- (5) The golf cart must have an identifiable identification number.

(D) *Required safety features.* In order to register a golf cart and secure an annual permit, a golf cart must have the following safety features installed:

- (1) A rear vision mirror;
- (2) At least 1 reflector per side;
- (3) A parking brake;
- (4) Seat belts for all seating positions on the golf cart;
- (5) A windshield; and
- (6) Must be limited to a maximum of 3 rows of seats.

(E) *Inspection.* Prior to the issuance of an initial permit or annual renewal, Cape Carteret Police Department shall inspect the golf cart for compliance with the requirements of this chapter. No golf cart shall be registered and permitted unless it is in compliance with all requirements.

(F) *Acknowledgement.* Prior to the issuance of an initial permit or annual renewal, the owner shall sign an acknowledgment that he/she has read and understands the provisions of this chapter.

(G) *Disqualified vehicles.* All-terrain vehicles, 4-wheel utility vehicles, go-carts, and other similar utility vehicles which are not manufactured for operation on a golf course, and/or a golf cart which has been modified so that it no longer meets the definition of golf cart may not be registered as a golf cart under this chapter nor shall such vehicles be operated on the public roads, streets, and highways within the town, unless such vehicles are registered and permitted under the motor vehicle laws of the state.

(Ord. 2011-08-03, passed 8-15-2011) Penalty, see § 75.99

## **§ 75.05 STANDARDS OF OPERATION.**

It is unlawful to operate a golf cart on a public street, road, or highway within the town unless the following requirements are met:

- (A) A golf cart must display a valid town-issued golf cart license plate and annual registration decal.

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(B) A golf cart may be operated on all public streets and roads in the town, with the exception of the entire length of NC Hwy 58, the entire length of NC Hwy 24, and the entire length of Taylor Notion Rd. Golf carts are strictly prohibited from traveling on NC Hwy 58, NC Hwy 24 and Taylor Notion Rd.

(C) No person may operate a golf cart unless that person is at least 16 years of age and is licensed to drive upon the streets, roads, and highways of the state and then, only in accordance with such driver's license. An operator of a golf cart must be a licensed driver as required by the laws of their home state. The operator must have the valid driver license in his or her possession while operating the golf cart. ~~The operator must be a resident, property owner, authorized guest, or tenant of property with a physical address in the town.~~

(D) The driver and passengers must be properly seated while the golf cart is in motion. ~~Passengers 15 years of age and younger~~ **The driver and all passengers** must be seated with seat belts properly fastened, and may not be transported in a negligent manner. The seating capacity with seat belts shall not be exceeded.

(E) No golf cart may be operated at a speed greater than reasonable and prudent for the existing conditions, and in no instance at a speed greater than 20 miles per hour.

(F) No golf cart may be operated in a careless or reckless manner.

(G) Golf carts must be operated in accordance with all applicable state and local traffic laws and ordinances, including all laws, regulations and ordinances pertaining to the possession and consumption of alcoholic beverages.

(H) Golf carts are subject to the same parking regulations as traditional motor vehicles, and may only be parked in the same manner and in the same places designated for the parking of traditional motor vehicles.

(I) Golf carts are permitted to park in specially designated "golf-cart-only" parking spaces as may be provided by the town in various locations.

(J) Golf carts may only park in handicapped parking spaces if the driver has a valid handicapped placard or sticker and the same is clearly posted or displayed in the golf cart.

(K) Golf carts may not be operated on any municipal pier, sidewalk, multi-use path, or designated bicycle path, except for golf carts operated by governmental or public service agencies for official purposes.

(L) No golf cart may be operated on town streets or roads between ~~official sunset and official sunrise~~ unless the golf cart is equipped with 2 operating front headlights, visible from a distance of at least 250 feet, and 2 operating tail lights, with brake lights and turn signals, visible from a distance of at least 250 feet. No golf cart may be operated on town streets or roads after 11:00 p.m.

(M) Golf carts may not be used for the purpose of towing another cart, trailer or vehicle of any kind, including a person on roller skates, skateboard, or bicycle.

(N) The possession of open containers of alcohol and/or consumption of alcohol by the driver and/or passengers of a golf cart is prohibited.

(O) The operator of a golf cart shall yield the right-of-way to traditional motor vehicles.

(Ord. 2011-08-03, passed 8-15-2011) (Ord. 2016-08-04, passed 8-15-2016) Penalty, see § 75.99

### **§ 75.06 PENALTIES AND REMEDIES.**

(A) Any person violating the motor vehicle laws of the state, which shall also apply to golf carts registered under this chapter, shall be subject to the penalties prescribed in state law for said violation.

(B) Any person who knowingly allows an underage driver to operate a golf cart shall be charged and subject to the penalties prescribed in state law for contributing to the delinquency of a minor.

(C) Any person violating the provisions of this chapter or failing to comply with any of its requirements shall be required to pay a civil violation in the amount of \$100.

(D) Any person violating the town's parking ordinances shall be subject to the penalties relating to parking violations.

(E) Operating a golf cart under the influence of an impairing substance (i.e., alcohol or drugs) on a public street or road is a violation of state law, and is punishable as provided therein.

(F) The town may refuse to register and issue a permit for the operation of a golf cart, or may revoke a previously issued permit, if the registered golf cart and/or the owner of the golf cart is involved in 3 or more violations of this chapter and/or violations of state law within a three-year time period. Said revocation and/or denial of a permit shall be effective for 1 year. (Ord. 2011-08-03, passed 8-15-2011)

## TITLE IX: GENERAL REGULATIONS

### Chapter

- 90. ABANDONED VEHICLES
- 91. ANIMALS
- 92. FIRE PREVENTION
- 93. NOISE
- 94. NUISANCES
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## CHAPTER 90: ABANDONED VEHICLES

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**GENERAL PROVISIONS**

**§ 90.01 PURPOSE.**

The purposes of this chapter are as follows:

- (A) To ensure the quality of urban attractiveness and the aesthetic appearance of the town;
  - (B) To protect property values throughout the town;
  - (C) To preserve the liveability and attractiveness of neighborhoods;
  - (D) To promote tourism, conventions, and other opportunities for economic development for the town;
  - (E) To ensure 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) To promote the comfort, happiness, and emotional stability of occupants of property in the vicinity of junked motor vehicles.
- (Ord. passed 1-20-1997)

**§ 90.02 ENFORCEMENT.**

The Police Department and Town Building Inspector shall be responsible for the administration and enforcement of this chapter. The 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 Town Building Inspector and the Police Department shall be responsible for administering the removal and disposition of abandoned, nuisance or junked motor vehicles located on private property. The town may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles and junked motor vehicles in compliance with this chapter and applicable state laws. Nothing in this chapter shall be construed to limit the legal authority or powers of officers of the Town Police Department, Fire

Department and Code Enforcement Officer in enforcing other laws or in otherwise carrying out their duties.

(Ord. passed 1-20-1997)

### **§ 90.03 DEFINITIONS.**

For the purposes of this chapter, certain words and terms are defined as herein indicated:

**ABANDONED VEHICLE.** As authorized and defined in G.S. § 160A-303, an abandoned motor vehicle is one that:

- (1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking;
- (2) Is left on a public street or highway for longer than 7 days;
- (3) Is left on property owned or operated by the town for longer than 24 hours; or
- (4) Is left on private property without the consent of the owner, occupant or lessee thereof, for longer than 2 hours.

**AUTHORIZING OFFICIAL.** The supervisory employee of the Police Department or the Town Building Inspector, respectively, designated to authorize the removal of vehicles under the provisions of this chapter.

**JUNKED MOTOR VEHICLE.** As authorized and defined in G.S. § 160A-303.2 the term **JUNKED MOTOR VEHICLE** means a vehicle that does not display a current license plate lawfully upon that vehicle and that:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self propelled or moved in the manner in which it originally was intended to move; or
- (3) Is more than 5 years old and appears to be worth less than \$100.

**MOTOR VEHICLE or VEHICLE.** All machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

**NUISANCE VEHICLE.** 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 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, and the like;
- (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 to be a health and safety hazard and a public nuisance by the Board of Commissioners.  
(Ord. passed 1-20-1997)

## **REMOVAL AUTHORIZATION**

### **§ 90.15 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 the vehicle to be abandoned as the term is defined herein.

(B) Upon investigation, proper authorizing officials of the town may determine that a vehicle is an abandoned vehicle and order the vehicle removed.  
(Ord. passed 1-20-1997) Penalty, see § 10.99

### **§ 90.16 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 Town Building Inspector or the designated supervisory employee of the Police Department may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined above, and order the vehicle removed.  
(Ord. passed 1-20-1997) Penalty, see § 10.99

### **§ 90.17 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 more than 1 junked motor vehicle, as defined herein, on the premises of public or private property. Single, permitted junked motor vehicle must strictly comply with the location and concealment requirements of this section.

(C) It shall be unlawful for any owner, person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to fail to comply with the locational requirements or the concealment requirements of this section.

(D) Subject to the provisions of division (E) below, upon investigation, the Town Building Inspector or the designated supervisory employee of the Police Department may order the removal of a junked motor vehicle as defined in this chapter after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property

owner. The finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting among other relevant factors that 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.

(E) Permitted concealment or enclosure of junked motor vehicles:

(1) *One junked motor vehicle.* One junked motor vehicle, in its entirety, can be located in the rear yard as defined by the town's zoning ordinance if the junked motor vehicle is entirely concealed from public view from a public street and from abutting premises by an acceptable covering.

(a) The Town Building Inspector or the designated supervisory employee of the Police Department has the authority to determine whether any junked motor vehicle is adequately concealed as required by this provision.

(b) The covering must remain in good repair and must not be allowed to deteriorate.

(c) The covering or enclosure must be compatible with the objectives stated in § 90.01.

(2) *More than 1 junked motor vehicle.* Any other junked motor vehicle(s) must be kept in a garage or building structure that provides a complete enclosure so that the junked motor vehicle(s) cannot be seen from a public street or abutting property. A garage or building structure means either a lawful, nonconforming use or a garage or building structure erected pursuant to the lawful issuance of a building permit and which has been constructed in accordance with all zoning and building code regulations.

(Ord. passed 1-20-1997) Penalty, see § 10.99

## IMPOUNDMENT, REDEMPTION PROCEDURES

### § 90.30 REMOVAL OF ABANDONED, NUISANCE OR JUNKED MOTOR VEHICLES; PRE-TOWING NOTICE REQUIREMENTS.

(A) Except as set forth in § 90.31 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 junked motor vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. The person who mails the notice(s) shall retain a written record to show the name(s) and address(es) to which mailed, and the date mailed. If the 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 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 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, the appeal shall be made to the Board of Commissioners in writing, heard at the next regularly scheduled meeting of the Board of Commissioners, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.  
(Ord. passed 1-20-1997)

### **§ 90.31 EXCEPTIONS TO PRIOR NOTICE.**

(A) 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.

(B) The findings shall, in all cases, be entered by the authorizing official in the appropriate daily records.

(C) Circumstances justifying the removal of vehicles without prior notice include:

(1) *Vehicles abandoned on the streets.* For vehicles left on the public streets and highways, the Board of Commissioners hereby determines that immediate removal of the vehicles may be warranted when they are:

- (a) Obstructing traffic;
- (b) Parked in violation of an ordinance prohibiting or restricting parking;
- (c) Parked in a no-stopping or standing zone;
- (d) Parked in loading zones;
- (e) Parked in bus zones; or
- (f) Parked in violation of temporary parking restrictions imposed under code sections.

(2) *Other abandoned or nuisance vehicles.* With respect to abandoned or nuisance vehicles left on town-owned property other than the streets and highways, and on private property, the 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, the circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

(Ord. passed 1-20-1997)

**§ 90.32 REMOVAL OF VEHICLES; POST-TOWING NOTICE REQUIREMENTS.**

(A) Any abandoned, nuisance or junked motor vehicle which has been in a no-stopping or standing zone; in loading zones; in bus zones; or ordered removed may, as directed by the town, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform services for the town. Whenever a vehicle is removed, the authorizing town official shall immediately notify the last known registered owner of the vehicle, the 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 division (A) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or his or her agent.

(C) If the vehicle is registered in North Carolina, notice shall be given within 24 hours. If the vehicle is not registered in the state, notice shall be given to the registered owner within 72 hours from the removal of the vehicle.

(D) Whenever an abandoned, nuisance or junked motor vehicle is removed, and the vehicle has no valid registration or registration plates, the authorizing city official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him or her of the information set forth in division (A) above.

(Ord. passed 1-20-1997)

**§ 90.33 RIGHT TO PROBABLE CAUSE 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 the hearing requests. The magistrate will set the hearing within 72 hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. § 20-219.11, as amended.

(Ord. passed 1-20-1997)

**§ 90.34 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 the towing fee, including any storage

charges, or by posting a bond for double the amount of the 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 chapter.

(Ord. passed 1-20-1997)

**§ 90.35 SALE AND DISPOSITION OF UNCLAIMED VEHICLE.**

(A) Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle.

(B) Disposition of a vehicle shall be carried out in coordination with the town and in accordance with G.S. Ch. 20.

(Ord. passed 1-20-1997)

**§ 90.36 CONDITIONS ON 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 the 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 Building Inspector or the designated supervisory employee of the Police Department. 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.

(Ord. passed 1-20-1997)

**§ 90.37 PROTECTION AGAINST CRIMINAL OR CIVIL LIABILITY.**

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

(Ord. passed 1-20-1997)

**§ 90.38 EXCEPTIONS.**

Nothing in this chapter shall apply to any vehicle:

(A) Which is located in a bona fide automobile graveyard or junkyard as defined in G.S. § 136-143, in accordance with the Junkyard Control Act, G.S. § 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.

(Ord. passed 1-20-1997)

### **§ 90.39 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 fees, have been paid.

(Ord. passed 1-20-1997) Penalty, see § 10.99

## **CHAPTER 91: ANIMALS**

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### Section

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## GENERAL PROVISIONS

### § 91.01 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.

**ANIMAL.** Any dog, cat or other animal or reptile that is owned, kept or harbored by an owner.

**AT LARGE.** Being off the premises of the owner and not restrained by leash or lead, not to exceed 6 feet in length, by the owner or member of his or her family, or any other person at the request of and under the direction of the owner.

**AUTHORIZED AGENT.** Any employee designated by the Board of Commissioners to perform duties described in this chapter. The authorized agent in performance of his or her duties shall have the powers, authorities and immunities granted under this chapter and by the general laws of this state to enforce the provisions of this chapter and state law, which relates to the care, treatment or impounding of animals, but shall not have the power of arrest.

**CAT.** Any feline, male or female.

**DOG.** Any canine, male or female.

**NEUTERED.** Rendering an animal, either male or female, incapable of reproduction.

**OWNER.** Any person owning, keeping or harboring an animal; and the head of the household shall be deemed the owner of any animal kept or harbored by any person or persons residing in the household and kept on the premises thereof.

**PARK AREAS.** All park areas leased or owned by the town.

**PUBLIC NUISANCE.** Any animal or group of animals that are found at large, or any animal that:

- (1) Damages the property of anyone other than its owner, including but not limited to turning over garbage containers or damaging gardens, flowers or vegetables;
- (2) Is a vicious animal;
- (3) Causes fouling of the air by odors;
- (4) Causes unsanitary conditions of enclosures or surroundings;
- (5) By virtue of number and type, is offensive or dangerous to the public health, safety or welfare;
- (6) Barks, whines or howls continuously for 10 minutes;
- (7) Is diseased and dangerous to the public health; or
- (8) Habitually or repeatedly chases, snaps at, attacks, or barks at pedestrians, bicycles or vehicles.

**VICIOUS ANIMAL.** Any animal which constitutes a physical threat to human beings or other animals by virtue of attacks of the number and severity as to cause property damage or physical injury.

(1997 Code, § 4-1)

### § 91.02 RUNNING AT LARGE.

(A) It shall be unlawful for a person owning or having custody of any animal to willfully permit or allow the animal to run at large in the town; including the park areas of the town.

(B) Any person or persons owning or having custody of any animal shall be held responsible for the actions of the animal when it is off the owner's property.  
(1997 Code, § 4-5) Penalty, see § 91.99

### **§ 91.03 LOUD OR HABITUAL NOISES.**

It shall be unlawful for any person to keep or maintain on any premises or lot any animal that, through loud barking, whining or howling continuously for 10 minutes, constitutes a neighborhood or public nuisance. Failure to abate the nuisance after warning from the Chief of Police, or any authorized agent, shall be unlawful and punishable according to § 91.99.  
(1997 Code, § 4-6) Penalty, see § 91.99

### **§ 91.04 ANIMALS IN HEAT.**

Every female animal while in heat shall be confined in a building or secure enclosure in a manner that she will not be in contact with another animal nor create a nuisance by attracting other animals. This shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner of an animal being bred.  
(1997 Code, § 4-7) Penalty, see § 91.99

### **§ 91.05 MUZZLES REQUIRED.**

The owner of every fierce, dangerous or vicious animal shall confine the animal within a building or secure enclosure and not take it out of the building or secure enclosure unless it is securely muzzled.  
(1997 Code, § 4-8) Penalty, see § 91.99

### **§ 91.06 REMOVAL OF EXCREMENT REQUIRED.**

No owner, keeper, or person in charge of the possession and/or control of any dog shall cause or allow the dog to defecate or otherwise commit any nuisance on any street, sidewalk, park, public right-of-way, or other publicly owned area, or upon any private property without permission of the owner or occupant of the property, unless the excrement is immediately removed by said owner, keeper, or person in charge of the dog and deposited in an appropriate waste container.  
(Ord. 2009-14, passed 7-20-2009)

## **CATS AND DOGS**

**§ 91.20 REGISTRATION OF DOGS AND CATS; TAGS, VACCINATION AND FEES.**

(A) *Collars and tags.*

(1) No person or entity shall own or keep any dog or cat over the age of 6 months in the town, unless that person has provided a collar and tags for each dog as herein provided.

(2) The collar shall contain a current rabies vaccination tag and an identification tag with the owner's name and telephone number imprinted upon it.

(B) *Vaccination.*

(1) It shall be unlawful for the owner of any dog or cat to keep the dog or cat, unless it is vaccinated by a licensed veterinary surgeon with antirabies vaccine as required by the General Statutes of North Carolina.

(2) Proof of rabies inoculation must be attached to the collar of the dog or cat.

(C) *Impound.*

(1) Any dog or cat not displaying the tag shall be impounded by the Chief of Police, or any authorized agent, or by the County Animal Control Officer.

(2) The impounded dog or cat may be reclaimed by the owner or custodian, upon furnishing the proof as is required by the County Animal Control Officer.

(Ord. 02-10-04, passed 10-21-2002; Am. Ord. 2006-8, passed 4-17-2006)

**§ 91.21 REMOVAL OF COLLAR OR ANIMAL FROM PROPERTY PROHIBITED.**

It shall be a misdemeanor for any person, other than the owner or lawful possessor, to remove the collar, license tag or rabies vaccination tag from the neck of the dog or cat or to entice any dog or cat out of any enclosure or house on the premises of its owner or lawful possessor, or to seize or molest any dog while held or led by its owner or lawful possessor. (1997 Code, § 4-12)

**§ 91.22 RESPONSIBILITY OF OWNER TO PREVENT NUISANCE.**

It shall be the responsibility of the owner or custodian of a dog or cat to take the measures as are reasonable so as to prevent the dog or cat from becoming a public nuisance. (1997 Code, § 4-13)

**§ 91.23 NUMBER OF CATS AND DOGS PERMITTED ON PREMISES.**

(A) *Limitation on number.* No person shall keep more than 4 animals over the age of 4 months on any 1 lot or premises within the corporate limits of the town.

(B) *Investigation; notice.* Upon receipt of a written and signed complaint of a person or persons alleging that more than 4 animals are being kept on a single lot or premises within the corporate limits, and specifying the address and location of the lot or premises, the Police Department shall investigate to determine if there is a violation of this section. If the Police Department determines that division (A) above is being violated, the Police Department shall

notify the person or persons keeping the dogs and/or cats of the violation. The notice shall be in writing and shall be served upon the person keeping the dogs and/or cats in violation of this section by delivering a copy of the notice to the lot or premises and leaving the notice with a responsible party. Upon the notice from the Police Department, the person keeping more than 4 animals on any 1 lot or premises, shall remove from the lot or premises all dogs and/or cats in excess of 4 within 5 calendar days of the date of notification.

(C) *Investigation without complaint.* The Police Department may investigate any suspected violation of division (A) above on its own volition, without having received a written complaint. If the Police Department determines that a violation has occurred, then notice procedures and requirements for removal of all dogs and/or cats in excess of 4 as set forth in division (B) shall apply.

(D) *Failure to abate.* Any person failing or refusing to remove from the premises all dogs and/or cats in excess of 4 within 5 calendar days of the date of written notification shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not exceeding \$50, or shall be subject to imprisonment not exceeding 30 days, as provided by G.S. § 14-4.

(E) *Exceptions.* This section shall not apply to dogs or cats which are less than 4 months of age so long as the dogs or cats less than 4 months of age are kept within a residence on the lot or premises in question.

(Ord. 01-06-02, passed 6-18-2001)

#### **§ 91.24 ALTERNATE PROCEDURE FOR ABATEMENT OF NUISANCE CREATED BY DOGS OR CATS.**

(A) *Declaration of nuisance.*

(1) The running at large of any dog, especially one having dangerous or destructive propensities indicated by the turning over of garbage receptacles, the destruction of shrubs, flowers, grass and other plants grown, the destruction of other property or the killing of other animals or the attacking of persons or other similar acts is hereby declared to be a public nuisance, and shall be abated as provided in this section.

(2) Any person keeping, within the corporate limits of the town, 1 or more dogs which by prolonged and habitual barking, howling, or whining cause serious annoyance to neighboring residents and interfere with the reasonable use and enjoyment of the premises occupied by the residents shall be guilty of maintaining a nuisance.

(B) *Complaint; notice.* Upon written, detailed and signed complaint being made to the Police Department by any resident that any person is maintaining a public nuisance as described in division (A) above, the Chief of Police shall cause the situation complained of to be investigated and a report and findings thereon to be reduced to writing by the investigating officer.

(C) *Abatement.* If the written findings of the investigating officer indicate that the complaint is justified, then the Chief of Police shall cause the owner or keeper of the dog in question to be so notified in writing and ordered to abate the nuisance within 48 hours by destruction or removal of the dog, or by penning, fence or otherwise restraining the dog from running at large at any time. In the event the owner or keeper of the dog is unknown and cannot be ascertained, the notice and order, along with a general description of the dog, shall be posted for 48 hours at the town hall.

(D) *Same misdemeanor.* If any owner or keeper of a dog for which an order of abatement has been issued, shall fail or refuse to abate the nuisance as ordered, he or she shall be guilty of a misdemeanor, and upon conviction, shall be subject to a fine not exceeding \$50, or shall be subject to imprisonment not exceeding 30 days, as provided by G.S. § 14-4.

(E) *Alternate remedy.* This section shall be construed as an alternate remedy for the abatement of a nuisance and shall not be construed to limit other sections of this chapter. (Ord. 01-06-02, passed 6-18-2001)

## **§ 91.25 KENNEL PROHIBITED IN RESIDENTIAL DISTRICTS.**

(A) It shall be unlawful for any person to keep or maintain a kennel to house or confine dogs being held for sale or being raised for any purpose or as a boarding kennel in any area zoned for residential purposes.

(B) A violation of this section shall subject the violator to the penalty provisions contained in § 91.99 and the abatement of nuisance provisions contained in § 91.23(D). (Ord. 01-06-02, passed 6-18-2001) Penalty, see § 91.99

## **LIVESTOCK**

### **§ 91.40 KEEPING HOGS OR PIGS.**

It shall be unlawful for any person to keep or maintain any hog pen or pig pen, or keep any hogs or pigs within the corporate limits of the town. (1997 Code, § 4-3) Penalty, see § 91.99

### **§ 91.41 KEEPING LIVESTOCK OR POULTRY.**

(A) It shall be unlawful for any person to keep within the corporate limits of the town any livestock, animals or poultry other than house pets. This prohibition shall be interpreted to include horses, cows, goats, sheep, and turkeys; but this list is not to be deemed all inclusive.

(B) Chickens are permitted for domestic use in the corporate limits as provided herein:

(1) No more than 6 hens are allowed per single-family parcel in the corporate limits. Roosters are prohibited.

(2) Chickens shall be confined on the property within an enclosure. Such enclosure shall be restricted to the rear yard, and shall meet the accessory structure setback requirements of the prevailing zoning district, refer to Code of Ordinances, Article XV, Chapter 156 Zoning, Appendix A Chart of Dimensional Requirements and Zoning Map. Enclosures shall allow for a minimum of 4 square feet per fowl, and a maximum of 2 lay in boxes. A zoning permit will be required for the enclosure. Property owner shall remove all enclosures, lay boxes and runs if the property owner fails to maintain chickens for 180 consecutive days.

(3) Slaughter is not permitted.

(4) Other domestic fowl, such as (but not limited to) peacocks, geese and ducks, are prohibited.

(5) Nuisance conditions shall be abated through the provisions of Chapter 93 and Chapter 94 of the Code of Ordinances, Article IX General Regulations.

(6) Each person applying for a zoning permit for a chicken enclosure shall provide verification that chickens are permitted in accordance with the restrictive covenants governing the subject property. No zoning permit shall be issued unless the restrictive covenants permit chickens.

(7) Each person applying for a zoning permit for a chicken enclosure shall provide verification from the Carteret County Board of Health that there are no health prohibitions.

(1997 Code, § 4-4) (Am. Ord. 2015-07-05, passed 7-13-2015) Penalty, see § 91.99

## **IMPOUNDMENT; REDEMPTION**

### **§ 91.55 IMPOUNDMENT PROCEDURES; FEES.**

(A) Dogs found running at large, and any animals in violation of this chapter, shall be picked up by the Chief of Police, or any authorized agent, and impounded in the shelter designated as the town animal shelter.

(B) When a dog is found running at large but cannot be caught and the ownership is known to the Police Chief, or any authorized agent, it need not be impounded; but the agent shall cite the owner to appear in court to answer to charges of violating this chapter.

(C) The Police Chief, or any authorized agent, upon receiving the animal, shall make a complete registry, entering the color, and the breed and sex if known, of each animal. When an animal is impounded, the owner shall be contacted, if possible, and informed that his or her animal has been impounded and by what means he or she may regain custody of the animal.

(D) Impounded animals shall be confined in an humane manner for not less than 3 days, and if not claimed, may thereafter be disposed of in an humane manner.

(E) The Chief of Police, or any authorized agent, may transfer any animal held at the shelter after the legal detention period has expired to the county animal control officer if not claimed.

(F) The owner of any animal so impounded may reclaim the animal upon payment of all costs and charges incurred by the town in regard to the impounding of the animal, which charges will be set from time to time by the Board of Commissioners; and a schedule of the charges is on file and available in the town offices. Proof of rabies inoculation is required before release from impoundment.

(G) For each animal that is impounded more than 1 time within a 3-month period, a civil penalty of \$30 shall be imposed upon the owner of the animal, due and payable within 48 hours of issuance of the civil citation. This penalty is in addition to the charge for keeping the animal.

(H) If no owner shall appear within 3 days, or if the owner appearing shall refuse, fail or neglect to pay all the sums herein prescribed, then it shall be the duty of the Chief of Police, or

any authorized agent, to request the proper agency of the county to impound and keep the animal, or otherwise dispose of the animal, as provided by law.

(I) If an animal is turned over to the county agency it shall be unlawful for the owner or keeper of the animal to take the animal from that agency without first complying with all reclaiming requirements of this chapter.

(J) The owner of an impounded animal not redeemed within the required holding period shall be responsible for the fees incurred whether or not the animal is claimed.  
(1997 Code, § 4-9)

## **§ 91.56 INTERFERING WITH OFFICERS.**

It shall be unlawful for any person to forcibly interfere with an officer in order to hinder him or her in the performance of his or her duties while he or she is attempting to catch any animal, as authorized in this chapter, or to release or attempt to release any animal from impoundment.

(1997 Code, § 4-10) Penalty, see § 91.99

## **§ 91.99 PENALTY.**

(A) Any violation of any provision of this chapter shall subject the violator to a civil penalty in the sum of \$50 per day. A citation for the civil penalty shall be issued by the Police Department or the Town Building Inspector. Each citation for a civil penalty must be paid within 72 hours of issuance.

(B) Every day the violator continues in violation shall be a separate and distinct offense.

(C) The Zoning Enforcement Officer is one designated by the Board of Commissioners.

(1997 Code, § 4-2) (Am. Ord. 00-12-10, passed 12-18-2000; Am. Ord. 2012-03-01, passed 3-19-2012)

# **CHAPTER 92: FIRE PREVENTION**

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## Section

### *General Provisions*

- 92.01 Burning trash on streets and rights-of-way prohibited
- 92.02 Fires to be watched while burning
- 92.03 Accumulation of combustible or flammable articles on lots prohibited

### *Fire Prevention Code*

- 92.15 Adoption of code by reference
- 92.16 Enforcement authorities
- 92.17 Definitions

## Cape Carteret, NC Code of Ordinances

- 92.18 Establishment of limits of districts in which manufacture and storage of fireworks is to be prohibited
- 92.19 Establishment of limits of districts in which storage of flammable liquids in outside aboveground tanks is to be prohibited
- 92.20 Establishment of motor vehicle routes for vehicles transporting explosives and blasting agents
- 92.21 Establishment of motor vehicle routes for vehicles transporting hazardous chemicals or other dangerous articles
- 92.22 Establishment of fire lanes on private property devoted to public use
- 92.23 Amendments
- 92.24 Modifications
- 92.25 Appeals
- 92.26 New materials, processes or occupancies which require permits
  
- 92.99 Penalty

### GENERAL PROVISIONS

#### **§ 92.01 BURNING TRASH ON STREETS AND RIGHTS-OF WAY PROHIBITED.**

No person shall burn or cause to be burned any trash, refuse, shavings, paper, leaves, litter or other material of any kind on any street or right-of-way within the town limits.  
(1997 Code, § 14-1) Penalty, see § 92.99

#### **§ 92.02 FIRES TO BE WATCHED WHILE BURNING.**

All persons who shall burn or set fire to any brush, grass or other material whereby any property may be endangered or destroyed shall keep and maintain a careful and competent watchman in charge while burning. Fire escaping from the burning shall be prima facie evidence of neglect of this chapter.  
(1997 Code, § 14-2) Penalty, see § 92.99

#### **§ 92.03 ACCUMULATION OF COMBUSTIBLE OR FLAMMABLE ARTICLES ON LOTS PROHIBITED.**

It shall be unlawful for any person to permit or suffer rubbish, refuse, trash or articles of a combustible or flammable nature to accumulate or remain on any lot or premises.  
(1997 Code, § 14-3) Penalty, see § 92.99

### FIRE PREVENTION CODE

**§ 92.15 ADOPTION OF CODE BY REFERENCE.**

(A) The following code is hereby adopted by reference as though it were stated herein including any and all appendices: 2009 Edition of the North Carolina Fire Prevention Code or the most current version thereof.

(B) Any matters in the Fire Prevention Code that are contrary to existing ordinances of the city shall prevail.

(1997 Code, § 14-31) (Ord. 2010-03, passed 4-19-2010)

**§ 92.16 ENFORCEMENT AUTHORITIES.**

(A) The Building Inspector shall be deemed to be the responsible official insofar as enforcing the provisions of the Fire Prevention Code adopted in § 92.15 are concerned, and shall have the title of Cape Carteret Fire Inspector.

(B) The Town Fire Inspector shall recommend any amendments to the Fire Prevention Code that in his or her judgment are desirable.

(C) The Fire Inspector may request and shall receive so far as may be necessary in the discharge of his or her duties the assistance and cooperation of other officials of the town.

(D) The Zoning Enforcement Officer is one designated by the Board of Commissioners.

(1997 Code, § 14-32) (Am. Ord. 00-12-00, passed 12-18-2000)

**§ 92.165 ADOPTION OF FIRE PREVENTION PROGRAM.**

There is hereby adopted by the town, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the "North Carolina Fire Code," adopted as of 2012 or as subsequently amended.

(A) In order to protect public health and safety, and comply with G.S. 153A-364 and G.S. 160A-424, the fire inspector, in accordance with G.S. 160A-411, shall make periodic inspections for the purpose of identifying activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related hazards, not less frequently than as required by the North Carolina Fire Code and state regulations.

(B) Fire Prevention Code and all codes or regulations relating to fire safety for various categories of occupancies within the jurisdiction of the town, shall be enforced by qualified town employees or qualified individuals under contract with the Town including the Western Carteret Interlocal Agency.

(C) Periodic inspections of commercial buildings as required by General Statutes will be made by the fire inspector in accordance with the North Carolina fire code. Initial inspections will be at Town expense. Inspection fees are listed in the Town fee schedule.

- (D) The fire inspector is authorized to issue notices of violation when he (she) has reasonable cause to believe that any person or business has violated any provision of the North Carolina Fire Code or the provisions of this article. The penalty for a violation imposed shall be in compliance with §92.99. In addition to the penalty the town will assess to the business owner the cost of re-inspections if deficiencies remain uncorrected.  
(Ord. 2016-08-02, passed 8-15-16)

### **§ 92.17 DEFINITIONS.**

The following words, terms and phrases, when used in the Fire Prevention Code, as adopted in § 92.15, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**CORPORATION COUNSEL.** The attorney for the town.

**MUNICIPALITY.** The Town of Cape Carteret, North Carolina.

(1997 Code, § 14-33)

### **§ 92.18 ESTABLISHMENT OF LIMITS OF DISTRICTS IN WHICH MANUFACTURE AND STORAGE OF FIREWORKS IS TO BE PROHIBITED.**

The limits referred to in § 2002 of the Fire Prevention Code, as adopted in § 92.15, in which the manufacture and storage of fireworks is prohibited, are hereby established as follows: the area encompassed by the municipal limits.

(1997 Code, § 14-34)

### **§ 92.19 ESTABLISHMENT OF LIMITS OF DISTRICTS IN WHICH STORAGE OF FLAMMABLE LIQUIDS IN OUTSIDE ABOVEGROUND TANKS IS TO BE PROHIBITED.**

(A) The limits referred to in § 902 of the Fire Prevention Code, as adopted in § 92.15, in which the storage of flammable liquids in outside aboveground tanks is prohibited, are hereby established as follows: in accordance with NFPA30.

(B) The limits referred to in § 906 of the Fire Prevention Code, as adopted in § 92.15, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby established as follows: all areas within the corporate limits of the town.

(1997 Code, § 14-35)

### **§ 92.20 ESTABLISHMENT OF MOTOR VEHICLE ROUTES FOR VEHICLES TRANSPORTING EXPLOSIVES AND BLASTING AGENTS.**

The routes referred to in § 1903 of the Fire Prevention Code, as adopted in § 92.15, for vehicles transporting explosives and blasting agents are hereby established as follows: only upon State Highway 24 and State Road 1120 (Taylor Notion Road).

(1997 Code, § 14-36)

**§ 92.21 ESTABLISHMENT OF MOTOR VEHICLE ROUTES FOR VEHICLES TRANSPORTING HAZARDOUS CHEMICALS OR OTHER DANGEROUS ARTICLES.**

The routes referred to in § 2201 of the Fire Prevention Code, as adopted in § 92.15, for vehicles transporting hazardous chemicals and other dangerous articles are hereby established as follows: only upon State Highway 24 and State Road 1120 (Taylor Notion Road).

(1997 Code, § 14-37)

**§ 92.22 ESTABLISHMENT OF FIRE LANES ON PRIVATE PROPERTY DEVOTED TO PUBLIC USE.**

The fire lanes referred to in § 602.6.5 of the Fire Prevention Code, as adopted in § 92.15, are hereby established as follows: as designated and marked by appropriate signs.

(1997 Code, § 14-38)

**§ 92.23 AMENDMENTS.**

Wherever records are required by the Fire Prevention Code to be kept in the offices of the Bureau of Fire Prevention, they shall be kept in the offices of the Town Fire Inspector.

(1997 Code, § 14-39)

**§ 92.24 MODIFICATIONS.**

The Board of Commissioners, with the approval of the State Board of Fire Code Officials, shall have the power to modify any of the provisions of the Fire Prevention Code, as adopted in § 92.15, upon application in writing by the owner or lessee, or his or her duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the Fire Prevention Code, provided that the intent of the Fire Prevention Code shall be observed, public safety secured, and substantial justice done. The particulars of any modification when granted or allowed and the decision of the Board thereon shall be entered upon the records of the town, and a signed copy shall be furnished to the applicant.

(1997 Code, § 14-40)

**§ 92.25 APPEALS.**

Whenever the Fire Inspector shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the Fire Prevention Code, as adopted in § 92.15, do not apply or that the true intent and meaning of the Fire Prevention Code have been misconstrued or wrongly interpreted, the applicant is permitted to appeal from the decision of the

Fire Inspector to the Board of Commissioners within 30 days from the date of the decision appealed.  
(1997 Code, § 14-41)

**§ 92.26 NEW MATERIALS, PROCESSES OR OCCUPANCIES WHICH REQUIRE PERMITS.**

The Mayor and the Fire Inspector shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits, in addition to those now enumerated in the Fire Prevention Code, as adopted in § 92.15. The Fire Inspector shall post the list in a conspicuous place in his or her office and distribute copies thereof to interested persons.  
(1997 Code, § 14-42)

**§ 92.99 PENALTY.**

(A) Any violation of any provision of this chapter or any provisions of the Fire Prevention Code adopted in § 92.15 shall subject the violator to a civil penalty in the sum of \$50 per day. A citation for the civil penalty shall be issued by the Police Department or the Town Building Inspector. Each citation for a civil penalty must be paid within 72 hours of issuance. Every day the violator continues in violation shall be a separate and distinct offense.

(B) The imposition of 1 penalty for any violation shall not excuse the violation or permit it to continue, and all persons shall be required to correct or remedy the violations or defects within a reasonable time; and when not otherwise specified, each day that a prohibited condition is maintained shall constitute a separate and distinct offense.

(C) The application of the penalty provided in division (A) above shall not be held to prevent the enforced removal of prohibited conditions.

(D) The provisions of this chapter and the Fire Prevention Code may be enforced by mandatory or prohibitory injunction or order of abatement from a court of competent jurisdiction or by any other equitable remedy as provided by G.S. § 160A-175.

(E) The Zoning Enforcement Officer is one designated by the Board of Commissioners.

(1997 Code, § 14-4) (Am. Ord. 00-12-10, passed 12-18-2000; Am. Ord. 2012-03-01, passed 3-19-2012)

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**CHAPTER 93: NOISE**

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Section

93.01 Loud, unnecessary noises prohibited  
93.02 Prohibited acts enumerated

93.99 Penalty

**§ 93.01 LOUD, UNNECESSARY NOISES PROHIBITED.**

It shall be unlawful for any person to create or assist in creating, permit, continue or permit the continuance of any unreasonably loud, disturbing and unnecessary noise in the town. Noise of the character, intensity and duration as to be detrimental to the life or health of any individual is prohibited.

(1997 Code, § 12-66) Penalty, see § 93.99

**§ 93.02 PROHIBITED ACTS ENUMERATED.**

The following acts are declared to be loud, disturbing and unnecessary noises in violation of this chapter. The following enumeration shall not be deemed to be exclusive:

(A) The sounding of any horn or signal device or any device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any signal device of any reasonably loud or harsh sound; and the sounding of the device for an unnecessary and unreasonable period of time;

(B) The use of any gong or siren upon any vehicle, other than police, fire or other emergency vehicle;

(C) The use or operation of any piano, manual or automatic, radio, phonograph, loudspeaker, or any other instrument, or sound amplifying devices so loudly as to disturb persons in the vicinity thereof, or in a manner as renders the same a public nuisance; however, upon application to the Chief of Police, permits may be granted to responsible organizations to produce programs in music, speeches or general entertainment;

(D) The keeping of any animal or bird which by causing frequent or long-continued noise shall disturb the comfort and repose of any person in the vicinity;

(E) The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in a manner as to create loud or unnecessary grating, grinding, rattling or other noise;

(F) The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger;

(G) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom;

(H) The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced;

(I) The erection, including excavation, demolition, alteration or repair of any building in a residential or business district other than between the hours of 7:00 a.m. and 6:00 p.m. Monday through Saturday, except in the case of urgent necessity in the interest of public safety and then only with a permit from the Building Inspector, which permit may be renewed for a period of 3 days or less while the emergency continues;

(J) The creation of any excessive noise on any street adjacent to any school, institution of learning, or court while the same is in session, or within 150 feet of any hospital, which unreasonably interferes with the working of the institution provided conspicuous signs are displayed in the streets indicating that the same are school, court or hospital streets;

(K) The creation of any excessive noise on Sundays, on any street adjacent to any church provided conspicuous signs are displayed in the streets adjacent to churches indicating that the same are church streets;

(L) The creation of loud and excessive noise in connection with loading or unloading any vehicle, or the opening and destruction of bales, boxes, crates and containers;

(M) The sounding of any bell or gong attached to any building or premises which disturbs the quiet or repose of persons in the vicinity;

(N) The shouting or crying of peddlers, barkers, hawkers and vendors which disturbs the quiet and peace of the neighborhood;

(O) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show, sale or display of merchandise except upon receiving specific permission from the Chief of Police in written form;

(P) The use of any mechanical loudspeakers or amplifiers on trucks or other moving vehicles for advertising purposes;

(Q) The operating, conducting or maintaining of any garage or filling station in any residential district so as to cause loud or offensive noises to be emitted therefrom between the hours of 9:00 p.m. and 7:00 a.m.; or

(R) The firing or discharging of squibs, crackers, gunpowder or other combustible substance in the streets or elsewhere for the purpose of making noise or disturbance, except by permit from the Board.

(S) Any noise deemed a nuisance after the hours of 9:00 p.m. Sunday through Thursday and 11:00 p.m. on Friday, Saturday and Federal holidays shall be prohibited. (1997 Code, § 12-67) (Ord. 2010-02, passed 2-15-2010)

### **§ 93.99 PENALTY.**

(A) Any violation of any provision of this chapter shall subject the violator to a civil penalty in the sum of \$50 per day. A citation for the civil penalty shall be issued by the Police Department or the Town Building Inspector. Each citation for a civil penalty must be paid within 72 hours of issuance. Each day that the violator continues in violation shall be a separate and distinct offense.

(B) The procedure set forth in division (A) above shall be in addition to any other remedies that may now or hereafter exist under state law or this chapter shall not prevent the town from proceeding in a criminal action against any person violating the provisions of this chapter.

(Ord. 2010-02, passed 2-15-2010; Am. Ord. 2012-03-01, passed 3-19-2012)

## **CHAPTER 94: NUISANCES**

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### Section

- 94.01 Conditions constituting a public nuisance
- 94.02 Investigation and determination of conditions
- 94.03 Notice of public nuisance

Cape Carteret, NC Code of Ordinances

- 94.04 Owner may request hearing
- 94.05 Abatement by town
- 94.06 Appeal to Town Board
- 94.07 Cost of removal by owner; lien
  
- 94.99 Penalty

**§ 94.01 CONDITIONS CONSTITUTING A PUBLIC NUISANCE.**

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

- (1) The uncontrolled growth of weeds or grass to a height in excess of 12 inches;
- (2) Any accumulation of rubbish, trash or junk causing or threatening to cause a fire hazard, the accumulation of stagnant water, or the inhabitation therein of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health;
- (3) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health; and
- (4) Any condition detrimental to the public health which violates the rules and regulations of the County Health Department.
- (5) Interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.
- (6) Any tree existing in a condition that threatens damage to an adjacent property or structure due to damage caused by a storm, the presence of pests, disease, or wood destroying insects, or that has been substantially damaged by any other natural or human act.

(B) Naturally wooded lots that have been subjected to any land disturbing activity are not required to meet the requirements of division (A)(1) above. Once a lot has undergone land disturbing activity it must comply with division (A)(1) above.

(1997 Code, § 12-31) (Am. Ord. 03-12-04, passed - - ; Am. Ord. 2009-15, passed 10-19-2009; Am. Ord. 2014-07-05, passed 7-21-2014) (Ord. 2016-08-01, passed 8-15-2016)

**§ 94.02 INVESTIGATION AND DETERMINATION OF CONDITIONS.**

(A) The Building Inspector or the Chief of Police, upon notice from any person or upon the Inspector's or Police Chief's own investigation of the existence of any of the conditions described in § 94.01, shall determine whether, in fact, the conditions exist which constitute a public nuisance as declared in § 94.01.

(B) The Zoning Enforcement Officer is one designated by the Board of Commissioners.

(1997 Code, § 12-32) (Am. Ord. 00-12-10, passed 12-18-2000)

**§ 94.03 NOTICE OF PUBLIC NUISANCE.**

(A) Upon determination by the Inspector that there exists on any property conditions constituting a public nuisance (as described in § 94.01) the Inspector shall notify the respondent by certified and first class mail of such conditions and shall order the abatement thereof within 15 days of the date of such notice. If the certified mail notice is unclaimed or refused but the first class mail is not returned within 10 days after mailing, the first class mail shall be sufficient to provide notice. If after due diligence the respondent's correct address cannot be determined, then the required notice shall be posted conspicuously on the offending property. The posted notice shall order the abatement of the nuisance within 15 days of the posting of the notice. Failure to give notice as set forth herein shall not affect the enforcement of § 94.05 of this chapter.

(B) The Zoning Enforcement Officer is one designated by the Board of Commissioners.

(1997 Code, § 12-33) (Am. Ord. 00-12-10, passed 12-18-2000; Am. Ord. 2009-15, passed 10-19-2009)

**§ 94.04 OWNER MAY REQUEST HEARING.**

(A) *Request for hearing.* Within 7 days from receipt of the notice provided for in § 94.03, the owner, occupant or person in possession of the premises may request a hearing before the official who ordered the abatement of the alleged nuisance. The official, upon receipt of the hearing request, shall fix a time for the hearing, and the initial abatement order shall be temporarily suspended pending the hearing.

(B) *Hearing.* At the hearing, the individual affected by the order shall be given the opportunity to present evidence to refute the findings which supported the abatement order.

(C) *Completion of hearing.* Upon completion of the hearing, the officer conducting the hearing shall:

- (1) Affirm the original order of abatement;
- (2) Modify the original abatement order; or
- (3) Revoke the initial abatement order.

(1997 Code, § 12-34)

**§ 94.05 ABATEMENT BY TOWN.**

(A) Upon the occurrence of either of the following conditions, the Building Inspector or Chief of Police shall cause the condition to be abated, removed or otherwise remedied:

(1) A hearing is requested and held under § 94.04, resulting in either an affirmation of the original order of abatement or modification of the order, and either the order is not complied with;

(2) Having considered an appeal from the order of the Building Inspector or the Chief of Police, the Town Board of Commissioners, pursuant to § 94.06 has affirmed the original order, or modified the same, but the abatement order has not been complied with; or

(3) No hearing has been requested or, the owner, occupant or person in possession of the premises having requested the hearing fails to attend, and the person having

been ordered to abate a public nuisance fails, neglects, or refuses to abate or remove the condition constituting the nuisance within the time frames stipulated in § 94.03.

(B) Any person who has been finally ordered to abate a public nuisance may, within the time allowed by this chapter, request the town in writing to remove the condition, the cost of which shall be paid by the person making the request. However, the town is not obligated to remove the condition, even if requested by the person subject to the abatement order, and the person requesting removing of the condition by the town is not relieved of his or her obligation to act by requesting town action.

(C) The Zoning Enforcement Officer is one designated by the Board of Commissioners.

(1997 Code, § 12-35) (Am. Ord. 00-12-10, passed 12-18-2000; Am. Ord. 2009-15, passed 10-19-2009)

#### **§ 94.06 APPEAL TO TOWN BOARD.**

(A) Within 7 days from the receipt of the decision of the official conducting a hearing pursuant to § 94.04, the person ordered to abate a public nuisance may request in writing filed with the Town Clerk a hearing before the Town Board of Commissioners. Obtaining a hearing pursuant to § 94.04 is a prerequisite to a request for a hearing under this section.

(B) The Town Clerk will forward a copy of the request to the Mayor who shall fix a time for the hearing.

(C) The abatement order issued by the official conducting the hearing under § 94.04 shall remain in full force and effect unless temporarily suspended by the Mayor pending the Town Board hearing.

(D) At the hearing, the individual affected by the order shall be given the opportunity to present evidence to refute the findings which supported the abatement order. Upon completion of the hearing, the Town Board shall:

- (1) Affirm the abatement order;
- (2) Modify the abatement order; or
- (3) Revoke the abatement order.

(1997 Code, § 12-36)

#### **§ 94.07 COST OF REMOVAL BY OWNER; LIEN.**

(A) The actual cost incurred by the town in removing or otherwise remedying a public nuisance, plus an administrative fee identified in the fee schedule, shall be charged to the owner of the lot or parcel of land, and it shall be the duty of the tax collector to mail a statement of the charges to the owner or other person in possession of the premises with instructions that the charges are due and payable within 30 days from receipt thereon.

(B) In the event charges for the removal or abatement of a public nuisance are not paid within 30 days after receipt of a statement of charges as provided for in § 94.05, the charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G.S. § 160A-193.

(1997 Code, § 12-37) (Am. Ord. 2009-15, passed 10-19-2009)

**§ 94.99 PENALTY.**

(A) Any violation of any provision of this chapter shall subject the violator to a civil penalty in the sum of \$50 per day. A citation for the civil penalty shall be issued by the Police Department or the Town Building Inspector. Each citation for a civil penalty must be paid within 72 hours of issuance. Each day that the violator continues in violation shall be a separate and distinct offense.

(B) The procedure set forth in division (A) above shall be in addition to any other remedies that may now or hereafter exist under state law or this chapter for the abatement of public nuisances, and this chapter shall not prevent the town from proceeding in a criminal action against any person violating the provisions of this chapter as provided in G.S. § 14-4.

(C) The Zoning Enforcement Officer is one designated by the Board of Commissioners.

(D) Repeat offenders.

(1) Any public nuisance that is observed or investigated after the first notice of a public nuisance is sent and received by a property owner within 12 months of the initial violation shall be considered a continuation of the initial violation and shall be subject to an additional civil penalty as set forth in this section. Each subsequent violation of this section is subject to the following penalty:

- (a) \$50 - 1st offense within 12 months of the initial violation.
- (b) \$100 - 2nd offense within 12 months of any preceding violation.
- (c) \$150 - 3rd offense within 12 months of any preceding violation.
- (d) \$200 - 4th offense within 12 months of any preceding violation.
- (e) \$250 - 5th offense within 12 months of any preceding violation.

(2) The town will abate the nuisance and the property owner will be responsible for the cost of removal per § 94.07. Each day that the violator continues in violation shall be a separate and distinct offense.

(1997 Code, § 12-38) (Am. Ord. 00-12-10, passed 12-18-2000; Am. Ord. 2012-03-01, passed 3-19-2012; Am. Ord. 2012-10-03, passed 10-15-2012)

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**CHAPTER 95: PARKS AND RECREATION**

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Section

- 95.01 Findings
- 95.02 Use of facilities limited

**§ 95.01 FINDINGS.**

The Board of Commissioners hereby finds that by the division of the deeds of gift to the town from the donor, it is provided that the use of the town recreational facilities and park areas, described in the deeds of gift shall be used only by town residents or owners of property within the town, and the deeds of gift further provide for a forfeiture in the event that this provision of the deeds of gift is violated.

(1997 Code, § 22-1)

**§ 95.02 USE OF FACILITIES LIMITED.**

Use of restricted recreational facilities is hereby limited to residents and owners of property of the town, and then only upon the following conditions:

(A) Parking will be permitted only in areas designated as parking areas and identified with appropriate parking signs. The signs shall be lettered PARK HERE.

(B) (1) Only automobiles which display a valid town automobile license, or a valid decal shall be allowed to park in the parking areas of the park facilities. This includes vehicles towing a boat/trailer without a valid parking pass, single vehicles without trailers parked in boat ramp parking spaces or any other parking violation within the boat ramp parking area. Parking spaces are for vehicles (with a valid pass) towing boats and not designated as single vehicle spaces.

(2) Parking at recreational facilities is specifically reserved for park visitors and shall not be utilized for general parking purposes. A vehicle parked at a recreational facility for more than 2 hours without the vehicle occupants present at the recreational facility shall be in violation of this section.

(3) Violations of this section shall subject the violator to the following civil penalties:

<i>Violation</i>	<i>Penalty</i>
Parking violations at restricted recreational facilities	\$50
Unauthorized use of public boat ramp	\$1000
Boat ramp pass not displayed	\$50

(C) No person using park areas shall be intoxicated, nor shall any person carry on any activity in park areas that shall constitute a public nuisance or that shall disturb a person of ordinary sensibilities, nor shall any person using park areas carry out any activity which shall become a nuisance, nor shall any person make any loud noise that shall be audible beyond the boundaries of the park area. However, the usual noises incident to the operation of motor vehicles or motor-powered vessels shall not be prohibited by the provisions of this chapter.

(D) No person shall place or leave or cause to be placed or left temporarily or permanently any trash, refuse or garbage in any of the park areas, except in receptacles provided by the town, or at its behest, specifically for the use. Signs, which shall be lettered DO NOT LITTER, shall be placed in the park areas.

(1997 Code § 22-2) (Am. Ord. 2007-04, passed 8-20-2007; Am. Ord. 2012-03-01, passed 3-19-2012; Am. Ord. 2015-09-08, passed 9-21-2015; Am. Ord. passed 9-12-2022); Am. Ord 2.13.2023 Penalty, see § 10.99

## **CHAPTER 96: STREETS AND SIDEWALKS**

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Section

*General Provisions*

- 96.01 Damage to bridges, culverts, ditches and drains
- 96.02 Injuring or removing of signs, lights or other municipal property
- 96.03 Toy vehicles in streets

*Obstructions*

- 96.15 Obstructions on streets or rights-of-way
- 96.16 Assembly on streets
- 96.17 House moving

*Excavations, Repairs and Construction*

- 96.30 Permit to dig in streets
- 96.31 Construction permit
- 96.32 Street to be put in good condition upon repair
- 96.33 Barricades and warning lights
- 96.34 Board approval of new streets
- 96.35 Town Assumption of Existing Streets, Right-of-Way, and Drainage Systems

*Sidewalks and Bike-Hike Trails*

- 96.40 Excavation permit required
- 96.41 Application for permit; fees
- 96.42 Liability for excavations
- 96.43 Responsibility for sidewalk and bike-hike trail repair and damage
- 96.44 Maintaining safety of excavation area
- 96.45 Construction near sidewalk or bike-hike trail
- 96.46 Supervision and control
- 96.47 Negligent excavations on contiguous lots

### **GENERAL PROVISIONS**

#### **§ 96.01 DAMAGE TO BRIDGES, CULVERTS, DITCHES AND DRAINS.**

No person shall injure or misplace any part of any bridge, culvert, ditch, drain or other property belonging to or used by the town; or shall place any obstruction in any culvert, ditch or drain, to prevent the free flow of water on or over the streets of the town.

(1997 Code, § 34-1) Penalty, see § 10.99

### **§ 96.02 INJURING OR REMOVING OF SIGNS, LIGHTS OR OTHER MUNICIPAL PROPERTY.**

No person shall injure, tamper with, remove or paint upon or deface any sign, signpost, streetlight, traffic signal, bulletin board or other municipal property upon the streets and rights-of-way except employees in the town in performance of their duties.

(1997 Code, § 34-2) Penalty, see § 10.99

### **§ 96.03 TOY VEHICLES IN STREETS.**

Riding of tricycles, small wagons and the use of small toys in the street of the town is prohibited. This provision excludes bicycles, roller skates and roller blades.

(1997 Code, § 34-3) Penalty, see § 10.99

## **OBSTRUCTIONS**

### **§ 96.15 OBSTRUCTIONS ON STREETS OR RIGHTS-OF-WAY**

No building materials or merchandise obstructing the free passage of persons and vehicles shall be placed or suffered to lie in any of the streets or rights-of-way of the town.

(1997 Code, § 34-31) Penalty, see § 10.99

### **§ 96.16 ASSEMBLY ON STREETS.**

All persons are forbidden from assembling or collecting and standing so as to obstruct any right-of-way or street, and all persons so collecting and standing shall disperse and move upon demand of any Police Officer.

(1997 Code, § 34-32) Penalty, see § 10.99

### **§ 96.17 HOUSE MOVING.**

No person shall move any house or building upon or across the public streets or rights-of-way without the written consent of the Board of Commissioners and the deposit of a good and sufficient bond in a sum to be determined by the Board to cover damage done to the street or right-of-way or to any property of any person.

(1997 Code, § 34-33) Penalty, see § 10.99

## **EXCAVATIONS, REPAIRS AND CONSTRUCTION**

### **§ 96.30 PERMIT TO DIG IN STREETS.**

It shall be unlawful for any person to dig any hole, ditch or excavation of any kind whatsoever on any street or right-of-way in the town without first securing a permit therefor in writing from the Town Clerk upon authorization of the Board of Commissioners.

(1997 Code, § 34-61) Penalty, see § 10.99

### **§ 96.31 CONSTRUCTION PERMIT.**

(A) No construction of any description shall be built on street rights-of-way without written permit from the Town Clerk upon authorization of the Board of Commissioners. This section excludes mailboxes and newspaper containers.

(B) Final plat approval by the Board of Commissioners or final commercial site plan approval by the Board of Commissioners shall be deemed to be compliance with the permit requirements of this section.

(1997 Code, § 34-62) (Am. Ord. 2006-13, passed 8-21-2006)

### **§ 96.32 STREET TO BE PUT IN GOOD CONDITION UPON REPAIR.**

It shall be the duty of every person who shall open or dig a ditch, trench or hole in any street of the town to put the street in as good condition in all respects as it was before.

(1997 Code, § 34-63)

### **§ 96.33 BARRICADES AND WARNING LIGHTS.**

It shall be unlawful for any person making any excavation for any purpose in any of the streets or rights-of-way to fail to securely cover the excavation with planks or to place ropes around the excavation 3 feet from the ground or shall fail to place a sufficient number of red lights around the excavation before dark and to keep the light burning all night around the excavation every night the excavation shall be open.

(1997 Code, § 34-64) Penalty, see § 10.99

### **§ 96.34 BOARD APPROVAL OF NEW STREETS.**

Before any new street offered for dedication to the town is accepted as such and officially recognized as a town-maintained street, the Board of Commissioners must give its approval,

finding that the street complies with engineering standards set by the Board and that the best interest of the town would be served by accepting the street as a town street.

(1997e, § 34-65)

**§ 96.35 TOWN ASSUMPTION OF EXISTING STREETS, RIGHT-OF-WAYS, AND DRAINAGE SYSTEMS**

- A. If a developer or property owner desires to convey ownership of a street, its appurtenant right-of-way, and drainage features/stormwater systems to the Town of Cape Carteret, then a formal letter and engineering report shall be submitted to the Board of Commissioners describing the street, right-of-way, and stormwater systems to be considered for conveyance. The property owner shall engage an engineer and soils scientist to examine the condition of the roadway, drainage features, and to analyze the road subgrade. The engineer shall prepare a report to be submitted to the Town describing the condition of the roadway, drainage features, and subsurface. The engineers report must describe the repairs and improvements that will be needed to bring the road to the applicable NCDOT specification identified by the engineer. The engineers report must also include information about all easements, below and above ground utilities, and any other pertinent information requested by the Town regarding the roadway, right-of-way, and drainage features. The engineer will consider the use, traffic flow, and location of the roadway in their analysis. The property owner will be responsible for completing all repairs and upgrades to the roadway, right-of-way, and drainage/stormwater systems per the engineer's report before the Town will formally accept a roadway. Based on the submitted scope, letter, and engineers report the Board of Commissioners will make a decision on the acceptance of the roadway, right-of-way, and drainage features and notify the property owner of their decision.
  
- B. If the Board of Commissioners provide notice to the property owner that the Town will accept the roadway, right-of-way, and stormwater systems then the applicant must complete all repairs and improvements as indicated in the engineers report along with any other actions specified by the Board of Commissioners as a part of their acceptance of the roadway. Once these steps have been completed the engineer must

provide a letter to the Town confirming that the required repairs and improvements have been completed to NCDOT standards and to the standards set forth by the Town.

- C. The Town reserves the right to accept or reject a portion or all of the roadway, right-of-way, or drainage components that are offered by the property owner. The Town reserves the right to reject work deemed unsatisfactory or that fails to meet NCDOT specifications as described in the engineer's report. This section of the Code of Ordinances creates no obligation on the part of the Town to accept a privately owned roadway, right-of-way, or stormwater system.

[Passed July 13<sup>th</sup> 2020 – 5-0 Vote]

## **SIDEWALKS AND BIKE-HIKE TRAILS**

### **§ 96.40 EXCAVATION PERMIT REQUIRED.**

It shall be unlawful for any person to make any excavation or opening or dig any ditch, trench, tunnel or hole in, along, across or under any sidewalk or bike-hike trail for the purpose of laying or placing therein any pipe, wires or poles or for any other purposes unless a written permit therefor has been issued by the Zoning Officer or some other officer of the town vested with that authority.

(Ord. 2007-03, passed 8-20-2007)

### **§ 96.41 APPLICATION FOR PERMIT; FEES.**

(A) All persons desiring a permit to make an opening in any sidewalk or bike-hike trail, as set forth in § 96.40, shall make written application therefor. The application shall specify the location, character and extent of the proposed work as set forth in § 96.40, the applicant's name and the name of the person who is to conduct the work. The application shall be accompanied by a fee as set forth in the published rate schedule of the town.

(B) The permit shall specify a time period within which the work shall be started and completed and shall further specify that it shall become void if the work authorized therein is not conducted within the specified time period. Notice of the proposed work shall be given to the Police Department 24 hours in advance of beginning the work. In an emergency the notice shall be given as soon as possible. The permit shall further provide that it is subject to revocation at any time by the Board of Commissioners, Zoning Officer or some other officer of the town vested with that authority. It shall be unlawful for any person to neglect or refuse to comply with the provisions of the permit, or to conduct or continue any work after the expiration or revocation of the permit.

(Ord. 2007-03, passed 8-20-2007)

**§ 96.42 LIABILITY FOR EXCAVATIONS.**

Any person obtaining a permit as provided for in § 96.40 agrees as a condition of the issuance of the permit, to indemnify the town against any claims or expenses, including attorney's fees for bodily injury or property damage for accidents or occurrences arising out of the person's operations, excluding only the liability of the town for its sole negligence. (Ord. 2007-03, passed 8-20-2007)

**§ 96.43 RESPONSIBILITY FOR SIDEWALK AND BIKE-HIKE TRAIL REPAIR AND DAMAGE.**

When any part of any sidewalk or bike-hike trail of the town shall be torn or dug up for any purpose, the person making the excavation or opening shall, immediately upon completion of the work and as speedily as practicable, refill the excavation or opening in accordance with town standards and specifications and to the satisfaction of the Zoning Officer or some other officer of the town vested with that authority. Any person neglecting, refusing or failing to comply with any provision of this section shall be guilty of a violation, and where the neglect, refusal or failure is continued, after notice from the Zoning Officer or some other officer of the town vested with that authority, every day's continuance shall constitute a separate and distinct offense. (Ord. 2007-03, passed 8-20-2007)

**§ 96.44 MAINTAINING SAFETY OF EXCAVATION AREA.**

It shall be unlawful for any person, firm or corporation who obtains a permit under this subchapter to do any excavation of any kind which may create or cause a dangerous condition in or near any sidewalk or bike-hike trail of the town without placing and maintaining proper guard rails 3 feet from the ground and other warnings sufficient to warn the public of the excavation or works, and to protect all persons using reasonable care from injuries. (Ord. 2007-03, passed 8-20-2007)

**§ 96.45 CONSTRUCTION NEAR SIDEWALK OR BIKE-HIKE TRAIL.**

Before building or remodeling at any place where the same is in close proximity to the sidewalk or bike-hike trail the permittee must keep the sidewalk or bike-hike trail unobstructed and provide safe and easy passage. (Ord. 2007-03, passed 8-20-2007)

**§ 96.46 SUPERVISION AND CONTROL.**

All excavation and work on sidewalks or bike-hike trails of the town shall be under the Zoning Officer or some other officer of the town vested with that authority, whose duty it shall

be to inspect the same from time to time during the progress thereof. Upon completion, the Zoning Officer or some other officer of the town vested with that authority shall make a final inspection and shall see to it that the sidewalk or bike-hike trail is restored to a condition as good in all respects as before the excavation or work was made or done, and that all debris, material, tools and equipment are removed. Any person refusing or failing to comply with any provision of this section shall be guilty of a violation, and where the failure or refusal is continued after notice from the Zoning Officer or some other officer of the town vested with that authority, every days continuance shall constitute a separate and distinct offense.

(Ord. 2007-03, passed 8-20-2007)

#### **§ 96.47 NEGLIGENT EXCAVATIONS ON CONTIGUOUS LOTS.**

Every person is forbidden to make or cause to be made any excavations on any lot contiguous to any sidewalk or bike-hike trail so negligently that the same, by caving in or otherwise, may in any manner endanger or injure the sidewalk or bike-hike trail, or persons using the same.

(Ord. 2007-03, passed 8-20-2007)

## **TITLE XI: BUSINESS REGULATIONS**

### Chapter

- 110. GENERAL PROVISIONS**
- 111. (RESERVED)**
- 112. TAXICABS**
- 113. MASSAGE ESTABLISHMENTS**
- 114. SEXUALLY ORIENTED BUSINESSES**
- 115. BODY PIERCING**
- 116. (RESERVED)**
- 117. SPECIALTY MARKET VENDORS**
- 118. PANHANDLING/BEGGING**
- 119. GENERAL MOTOR VEHICLE SIDEWALK-STREET TAX**
- 120. BEER AND WINE LICENSE**

## **CHAPTER 110: GENERAL PROVISIONS**

### Section

- 110.01 Operation of cable television system without franchise from town prohibited
- 110.02 Sale of beer and wine on Sunday

#### **§ 110.01 OPERATION OF CABLE TELEVISION SYSTEM WITHOUT FRANCHISE FROM TOWN PROHIBITED.**

(A) It shall be unlawful to operate any cable television system within the municipal limits of the town without a franchise granted by the Board of Commissioners.

(B) No franchise shall be finally granted until a public hearing has been held before the Board on the question of granting a franchise and the recipient thereof. Prior to any public hearing, notice thereof shall be published once a week for 2 successive weeks in the Carteret County News-Times. The first date of publication shall not be more than 25 nor less than 15 days prior to the date of the public hearing.

(1997 Code, § 8-1)

## § 110.02 SALE OF BEER AND WINE ON SUNDAY.

The sale of malt beverage, ~~and wine, fortified or unfortified, and mixed beverages~~ is allowed on Sunday ~~only between the hours of 12:00 p.m. and 11:45 p.m.~~ beginning at 10:00 A.M. pursuant to the licensed premises' permit issued under G.S. 18B-1001.

(1997 Code, § 8-2) (Ord. 2017-08-02; passed 8-14-2017)

## CHAPTER 111: (RESERVED)

## CHAPTER 112: TAXICABS

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### Section

#### *General Provisions*

- 112.01 Definition
- 112.02 Display of rates

#### *Certificate of Convenience and Necessity*

- 112.15 Operation without certificate prohibited
- 112.16 Application required; proof of liability insurance
- 112.17 Issuance of certificate
- 112.18 Certificate constitutes franchise; term
- 112.19 Determination of convenience and necessity
- 112.20 Hearing; notices
- 112.21 Burden of proof
- 112.22 Failure to begin operations
- 112.23 Transfer of certificate
- 112.24 Revocation of certificate
- 112.25 Substitution of vehicles

#### *Driver's Permit*

- 112.40 Required

- 112.41 Application to permit to drive taxicab
- 112.42 Acting upon application
- 112.43 Display of permit
- 112.44 Revocation

## GENERAL PROVISIONS

### § 112.01 DEFINITION.

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

**TAXICAB.** Any motor vehicle seating 9 or fewer passengers operated upon any street or highway on call or on demand, accepting or soliciting passengers indiscriminately for hire between the points along streets or highways as may be directed by the passengers so being transported; and shall not include motor vehicles or motor vehicle carriers exempted from municipal regulations under the general statutes or under statutes of the United States. (1997 Code, § 40-31)

### § 112.02 DISPLAY OF RATES.

Every taxicab operator within the corporate limits or within a distance of 5 miles thereof shall have at all times prominently posted and displayed in the taxicab so as to be visible to the passengers therein the rates and/or fares for the use of the taxicab. (1997 Code, § 40-32)

## CERTIFICATE OF CONVENIENCE AND NECESSITY

### § 112.15 OPERATION WITHOUT CERTIFICATE PROHIBITED.

(A) *Certificate of convenience required.* It shall be unlawful for any person to operate a taxicab upon and over the streets of the town without first having applied for and secured from the Board of Commissioners a certificate of convenience and necessity as set forth in this chapter.

(B) *Application fee required.* The applicant shall pay an application fee in the amount prescribed in the town's fee schedule.

(1997 Code, § 40-51) (Am. Ord. 2006-4, passed 3-20-2006) Penalty, see § 10.99

### § 112.16 APPLICATION REQUIRED; PROOF OF LIABILITY INSURANCE.

(A) *Application required.* Every person desiring to operate a taxicab upon and over the streets of the town shall file, on forms supplied by the Town Clerk, an application for a certificate of convenience and necessity.

(B) The application shall be accompanied with proof of liability insurance issued by a company licensed to do business in the state, providing bodily injury limits on all vehicles to be operated in the business, with coverage limits of at least \$300,000/\$500,000 per person/per accident.

(1997 Code, § 40-52) (Am. Ord. 2006-5, passed 3-20-2006) Penalty, see § 10.99

### **§ 112.17 ISSUANCE OF CERTIFICATE.**

The Board of Commissioners shall have power and it shall be the Board's duty to order certain certificates issued or to refuse to issue certain certificates, or to issue certificates for a partial exercise only of the privileges sought; and may attach to the exercise of the rights granted by the certificate the terms and conditions as in its judgment the public convenience and necessity may require upon consideration including but not limited to the factors enumerated in § 112.19.

(1997 Code, § 40-53)

### **§ 112.18 CERTIFICATE CONSTITUTES FRANCHISE; TERM.**

A certificate shall constitute a franchise from the town for the operation of taxicabs within the town, subject to the provisions of this chapter, for 1 year, unless a shorter period of time is specified in the certificate. Applications for renewal shall be filed annually and hearings conducted as herein provided.

(1997 Code, § 40-54)

### **§ 112.19 DETERMINATION OF CONVENIENCE AND NECESSITY.**

(A) In determining whether the public convenience and necessity requires the franchising of taxicabs, the Board of Commissioners shall take into consideration, but not be limited to, the following factors:

(1) Whether or not the public convenience and necessity requires the proposed or additional taxicab service within the town;

(2) The financial responsibility of the applicant and the likelihood of the proposed service being permanent, responsible and satisfactory;

(3) The number and condition of equipment;

(4) The schedule of proposed rates to be charged;

(5) The number of taxicabs now operated and the demand for increased service, if any;

(6) Whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved;

(7) Whether or not adequate provision has been made for off street parking of taxicabs;

(8) The experience of the applicant in the taxicab business;

(9) The character and reputation of the applicant; and

(10) The other relative facts as may be deemed necessary and advisable.

(B) Before making any decision with respect to the issuance of a certificate of convenience and necessity, the Board of Commissioners, or a committee thereof, shall make a full and complete investigation of all facts and may, if it so desires, subpoena witnesses and utilize the services of the Chief of Police or any other officer or employee of the town.

(1997 Code, § 40-55)

### **§ 112.20 HEARING; NOTICES.**

(A) Each application for a certificate of convenience and necessity shall be scheduled for a hearing not later than 20 days after the application is filed.

(B) The applicant shall be notified by the Town Clerk, by mail, addressed to the business address set forth in the application, of the date and time of the hearing. The notification shall be sent at least 10 days before the date set for the hearing.

(C) The Clerk shall also, within the same time, notify all persons who at that time hold certificates of convenience and necessity for the operation of taxicabs within the town, of the date and time of the hearing, and the name of the applicant.

(D) In addition, the Clerk shall cause to be published, at least once in a newspaper of general circulation within the town, at least 10 days before the hearing, a notice setting forth the name of the applicant and the date and time of the hearing.

(E) The cost of the publication is to be paid by the applicant.

(1997 Code, § 40-56)

### **§ 112.21 BURDEN OF PROOF.**

The burden of proof shall be upon the applicant to establish the existence of public convenience and necessity for the operation of the taxicabs specified in his or her application and all other facts required for the granting of a certificate.

(1997 Code, § 40-57)

### **§ 112.22 FAILURE TO BEGIN OPERATIONS.**

If a certificate is granted to an applicant and the applicant fails, in accordance with the provisions of the certificate, to begin operations within 60 days after the date of the certificate, the certificate shall become null and void.

(1997 Code, § 40-58)

### **§ 112.23 TRANSFER OF CERTIFICATE.**

A certificate shall not be transferable without the consent of the Board of Commissioners. Application for a permit to transfer shall be filed in the same manner as an application for a certificate of convenience and necessity. The proceeding upon the application for a transfer shall be the same as those described for the issuance of a certificate, except that the question of public convenience and necessity need not be proved.

(1997 Code, § 40-59)

#### **§ 112.24 REVOCATION OF CERTIFICATE.**

(A) The Board of Commissioners may at any time, after a public hearing, revoke any certificate issued by authority of this chapter for any 1 or more of the following causes:

(1) Failure to operate the taxicabs specified in the certificate in a manner as to serve the public adequately and efficiently;

(2) Failure to maintain motor equipment in good repair;

(3) Failure to carry liability insurance or bond as required by law;

(4) Failure to pay the municipal taxes or license fees imposed upon the taxicabs;

(5) Repeated and persistent violation by the taxicab drivers of traffic and safety ordinances, or state or federal laws relating to alcoholic beverages, narcotic drugs or prostitution;

(6) Failure to report accidents; or

(7) Willful failure to comply with any provision of this chapter or other ordinances or state laws relating to the operation of taxicabs.

(B) No certificate shall be revoked until the owner has had at least 5 days' notice given by the Town Clerk by personal service or registered mail, of the charges against him or her, and of the time and place of a hearing on the charges to be held by the Board of Commissioners. If after the hearing it is found that the owner is guilty of 1 or more of the offenses listed in this section, the Board shall have the power to revoke the certificate, or to condition a revocation upon compliance with its order within any time fixed by it.

(1997 Code, § 40-60)

#### **§ 112.25 SUBSTITUTION OF VEHICLES.**

(A) The person to whom a certificate has been issued may, by appropriate endorsement thereon by the Town Clerk, substitute another vehicle for the vehicle for which the certificate was granted.

(B) In this instance, the liability insurance or bonds shall also be transferred to the substitute vehicle.

(1997 Code, § 40-61)

### **DRIVER'S PERMIT**

**§ 112.40 REQUIRED.**

(A) No person shall drive any taxicab carrying passengers for hire from place to place within the corporate limits, or within a distance of 5 miles thereof, unless the person shall have first applied to and secured from the Board of Commissioners a permit to drive a taxicab.

(B) The fee for a permit to drive a taxicab shall be set from time to time by the Board of Commissioners, and the schedule of the fee is on file and available for public inspection and copying in the town offices.

(1997 Code, § 40-62)

**§ 112.41 APPLICATION TO PERMIT TO DRIVE TAXICAB.**

(A) The application for a permit to drive a taxicab shall be made upon an application furnished by the town, and shall contain the following, provided at the applicant's expense:

(1) Full name, physical and mailing address of each applicant;

(2) Physical description of applicant;

(3) The applicant's certification that none of the factors set out as sufficient grounds for refusing to issue a permit in G.S. § 160A-304(a) (as that statute now exists or may hereafter be amended) exist as to him or her;

(4) A certified true copy of the applicant's criminal court record for Carteret and Onslow Counties in the State of North Carolina;

(5) A certified true copy of a complete driving history (Division of Motor Vehicles "Master Check") of the applicant; and

(6) Any other information required by the Chief of Police or the Town Clerk, on behalf of the Board of Commissioners, reasonably related to the health, welfare and safety of the town's residents.

(B) Upon approval of the application, the applicant shall pay a privilege license in the amount prescribed in the town's fee schedule.

(C) The Chief of Police and the Town Clerk are hereby charged with the duty of investigating the facts set out in the application, and shall report their findings and recommendations to the Board of Commissioners.

(1997 Code, § 40-63) (Am. Ord. 2006-6, passed 3-20-2006) Penalty, see § 10.99

**§ 112.42 ACTING UPON APPLICATION.**

If the Board of Commissioners finds that the applicant for a taxicab driver's permit has not been convicted of a felony or a violation of any federal or state statute relating to the use, possession or sale of intoxicating liquors or narcotic drugs, or relating to prostitution, and that the applicant is a citizen of the United States, is not an habitual user of intoxicating liquors or narcotic drugs, and has not been an habitual violator of traffic laws, the Board shall act upon the application within 30 days from the time it is filed.

(1997 Code, § 40-64)

**§ 112.43 DISPLAY OF PERMIT.**

The driver of every taxicab shall, at all times while operating the taxicab prominently post and display in the taxicab so as to be visible to the passengers therein his or her permit to drive a taxicab.

(1997 Code, § 40-65)

**§ 112.44 REVOCATION.**

At any time after the issuance of a permit to any person to drive a taxicab the Board of Commissioners may revoke the permit if the person holding the permit is convicted of a felony; a violation of any federal or state statute relating to the use, possession or sale of intoxicating liquors or narcotic drugs; a third violation of traffic laws or ordinances, or a violation of any state or federal statute relating to prostitution; or if he or she becomes an habitual user of intoxicating liquors or narcotic drugs.

(1997 Code, § 40-66)

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## **CHAPTER 113: MASSAGE ESTABLISHMENTS**

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Section

113.01	Purpose and objective
113.02	Definitions
113.03	Exemptions
113.04	Licensing of massage therapists
113.05	Licensing of massage therapy establishments
113.06	Posting of license
113.07	Revocation
113.08	Employees
113.09	Fees
113.10	Grandfather clause
113.11	Reciprocity
113.99	Penalty

**§ 113.01 PURPOSE AND OBJECTIVE.**

The therapeutic application of massage is 1 of the oldest healing arts known to humankind, a practice which can provide many benefits to an individual's state of health and well-being. In the interest of public health, safety, welfare and morals, and to protect the public from unqualified practitioners and unethical businesses, privilege license provisions and regulations specified in this chapter are hereby adopted.

(1997 Code, § 8-76)

**§ 113.02 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.

**BUSINESS** or **PROFESSION OF MASSAGE THERAPY.** Includes the massage or treatment of any person for a fee or for other good or valuable consideration from the person treated.

**MASSAGE, THERAPEUTIC MASSAGE, BODYWORK.** Synonymous with **MASSAGE THERAPY.**

**MASSAGE THERAPIST.** Any person, whether male or female, who is engaged in the practice of massage therapy, and who receives compensation for his or her services.

**MASSAGE THERAPY.** Any form of manipulation of the muscles, skin or other soft tissue of the body, by kneading, stroking, pressing, tapping or movement of extremities, whether applied by hand, arm or foot or aided by mechanical device.

**MASSAGE THERAPY ESTABLISHMENT.** Any business or establishment wherein massage therapy is practiced, including establishments commonly known as health clubs, physical culture studios, massage clinics, or similar establishments by whatever name designated.

(1997 Code, § 8-77)

**§ 113.03 EXEMPTIONS.**

(A) The practice of massage therapy shall not include and is distinct from the practice of medicine, surgery, osteopathy, nursing, chiropractic, physical therapy or podiatry. Requirements of this chapter shall have no application to and effect upon:

(1) Physicians, surgeons, chiropractors, osteopaths, physical therapists or podiatrists duly licensed to practice in this state, and registered or licensed practical nurses governed by the state nursing practices act;

(2) Athletic directors or trainers who are affiliated with an approved educational institution or professional sports team and whose work is limited to athletic team members; or

(3) Licensed cosmetologists, barbers or beauty culturists who do not give or hold themselves out to give massage treatments other than are customarily given in the establishments, solely for the purpose of beautification.

(B) No other persons not duly qualified and licensed as a massage therapist under this chapter, whether employed by physicians, chiropractors, osteopaths, podiatrists, or not, may render massage therapy as a professional or business endeavor or for or in exchange of any type of valuable consideration or remuneration.

(1997 Code, § 8-78)

**§ 113.04 LICENSING OF MASSAGE THERAPISTS.**

Cape Carteret, NC Code of Ordinances

(A) No person shall engage in the business or profession of massage therapy unless the person shall have first applied for and received a privilege license as required by this section.

(B) Applicants must provide the Tax Collector with a copy of their North Carolina board of massage and bodywork therapy state license. This requirement shall apply to all applicants, and no individual seeking to practice massage therapy in the town shall be exempted therefrom except as expressly provided in § 113.03.

(C) The application for the license required by this section shall be upon a form approved by the town and shall be filed with the Tax Collector for the town. The application shall be given under oath and shall contain the following information:

- (1) The name, age and residence address of the applicants;
- (2) The North Carolina board of massage and bodywork therapy state license number, effective and expiration date;
- (3) A complete statement of the previous businesses or occupations of the applicant for the 2 years immediately preceding the date of the application;
- (4) The date and place of the applicant's birth and the residence address or addresses of the applicant for the 3 years immediately preceding the date of application;
- (5) A complete statement of all convictions of the applicant for any felonies and any offense involving sexual misconduct, whether for this jurisdiction or any other, including G.S. §§ 14-177 through 14-199, and G.S. §§ 14-203 through 14-208, or any federal statute relating to prostitution, or of any governmental unit concerning or related to the business or profession of massage; and
- (6) A complete statement of any revocation of any license granted by any governmental unit to the applicant to engage in the business or profession of massage therapy.

(D) Upon payment of the application fee, as set out in § 113.09, and upon submission of all the information required by the application under this chapter, the Tax Collector shall transmit a copy of the application to the Police Department for an investigative report. The Police Department shall report the results of the investigation within a reasonable time, not to exceed 30 days. A license shall be granted immediately if all requirements described in this chapter are met, unless it appears that any applicant is under the age of 18 years, has deliberately falsified the application, has had a previously issued license to engage in the business or profession of massage revoked, or the record of the applicant reveals a conviction as set out in division (C)(5) of this section.

(E) It shall be unlawful for anyone to perform massage therapy upon a person under the age of 18 years unless consent therefor has been given by the person's parent, guardian or custodian.

(1997 Code, § 8-79) (Am. Ord. 2005-03-02, passed 3-21-2005; Am Ord. 2005-03-03, passed 3-21-2005)

**§ 113.05 LICENSING OF MASSAGE THERAPY ESTABLISHMENTS.**

(A) No person shall operate a massage therapy establishment unless the person shall have first applied for and received the privilege license provided by this section.

(B) Every application for the privilege license prescribed in this section shall be upon a form approved by the town and supplied by and filed with the Tax Collector. Every application shall be made under oath and shall contain the following information:

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(1) If the applicant is a person, the name and residence address of the person; if the applicant is a partnership, corporation or association, the name and residence address of all principal officers of the partnership, corporation or association;

(2) The address of the premises where the massage therapy establishment shall be located;

(3) A complete statement of all convictions of any person whose name is required to be given in division (B)(1) above for any offense as previously set out herein;

(4) A complete statement of any revocation by any governmental unit of any license to operate a massage therapy establishment or to engage in the business or profession of massage therapy held by any person whose name is required to be given in division (B)(1) of this section; and

(5) The name and address of any massage therapy establishment or other establishment owned or operated by any person whose name is required to be given in division (B)(1) of this section wherein the business or profession of massage is carried on.

(C) The Tax Collector shall transmit a copy of the application to the police for an investigative report to the inspections division of the town to determine if the proposed establishment is in compliance with all zoning and building regulations and ordinances, and to the County Fire Marshal to determine compliance with any law relating to fire protection. The police and the Fire Marshal shall, within a reasonable time, not to exceed 30 days, report the results of their examinations to the Tax Collector.

(D) An application in proper form, accompanied by all reports required herein, shall be submitted to the Board of Commissioners, which shall approve the application if the Board of Commissioners determines that:

(1) The application contains no misstatement of fact;

(2) The applicant and any person having legal or beneficial ownership interest in the proposed establishment is over the age of 18 years and has not been convicted of any crime involving sexual misconduct, as set forth in this chapter;

(3) The proposed establishment conforms to all requirements of applicable zoning, building and fire prevention codes; and

(4) The applicant or any person having a legal or beneficial ownership or interest in the proposed establishment has not, for the 3-year period preceding the application, had a previously issued license for engaging in the business or profession of massage or a license to operate a massage business revoked.

(1997 Code, § 8-80)

**§ 113.06 POSTING OF LICENSE.**

(A) Every massage therapist shall post the license required by this chapter in his or her work area at all times.

(B) Every person licensed under § 113.05 as a massage therapy establishment shall display the license in a prominent place at all times.

(1997 Code, § 8-81)

**§ 113.07 REVOCATION.**

Cape Carteret, NC Code of Ordinances

(A) No license under this chapter shall be revoked until after due notice and a hearing shall have been held before the Board of Commissioners to determine just cause for revocation. The burden of proving just cause for revocation shall be on the town. Notice of the hearing shall be given in writing and served at least 10 days prior to the date of the hearing thereon. The notice shall state the grounds of the complaint against the holder of the license and shall designate the time and place where the hearing will be held.

(B) The notice shall be served by the Police Department upon the license holder by delivering the same personally or by leaving the notice at the place of business or residence of the license holder in the custody of a person of suitable age and discretion. In the event the license holder cannot be found, and the service of the notice cannot be otherwise made in the manner herein provided, a copy of the notice shall be mailed, registered, postage fully prepaid, addressed to the license holder at his or her place of business or residence at least 10 days prior to the date of the hearing.

(C) The license of a massage therapist issued pursuant to this chapter may be revoked upon 1 or more of the following grounds:

- (1) The licensee has violated any provision of this chapter;
  - (2) The licensee has been convicted of a crime involving sexual misconduct, including those set out in § 113.04(C)(5);
  - (3) The licensee is guilty of fraudulent, false, misleading or deceptive advertising, including the use of the term ***MASSAGE THERAPY*** or ***MASSAGE*** to describe, promote or advertise any type of business activity or service offered which is expressly not massage therapy, or has otherwise fraudulently engaged in practicing massage therapy;
  - (4) The licensee has fraudulently obtained a license pursuant to the provisions of this chapter;
  - (5) The licensee allows the use of his or her license by an unlicensed person;
- or
- (6) The licensee is addicted to the habitual use of alcohol, narcotics or other drugs, to an extent as to incapacitate the person for the safe and normal performance of his or her professional duties.

(D) A license of a massage therapy establishment issued pursuant to this chapter may be revoked upon 1 or more of the following grounds:

- (1) The licensee has violated any provision of this chapter;
- (2) The licensee, or any agent of the licensee, employs and/or permits any individual to perform massage therapy on the premises of the licensee's massage therapy establishment when that individual has not been issued the privilege license required by § 113.04;
- (3) The licensee, or the legal or beneficial owner of any interest of the licensee, is convicted of any crime involving sexual misconduct, including but not limited to those set out in § 113.04(C)(5);
- (4) Any employee of the licensee is convicted of any crime involving sexual misconduct, including but not limited to those set out in § 113.04(C)(5);
- (5) The licensee is guilty of fraudulent, false, misleading or deceptive advertising, including the use of the term ***MASSAGE THERAPY*** or ***MASSAGE*** to describe, promote or advertise any type of business activity or service offered which is expressly not massage therapy, or has otherwise fraudulently engaged in the business or profession of massage therapy; or

(6) The licensee violates any zoning, building or fire prevention ordinance.  
(1997 Code, § 8-82) Penalty, see § 113.99

### **§ 113.08 EMPLOYEES.**

(A) No person licensed under § 113.05 as a massage therapy establishment shall allow or permit any person to massage or treat any person upon the premises operated by the licensee or in any other location under his or her authority or at his or her direction unless the person giving the massage or treatment is licensed under this chapter pursuant to § 113.04.

(B) Violation of this section shall be grounds for revocation of the license issued to the violator.  
(1997 Code § 8-83)

### **§ 113.09 FEES.**

(A) The application fee for a privilege license for a massage therapy establishment shall be \$100.

(B) The application fee for a massage therapist shall be \$50.

(C) Under this chapter, a massage therapist in business as a sole practitioner shall only be required to pay the application fee set out in division (A) above.  
(1997 Code, § 8-84)

### **§ 113.10 GRANDFATHER CLAUSE.**

(A) Any person who has been engaged in the business or profession of massage therapy in this town for 3 or more continuous years may be granted a license pursuant to the provisions of this chapter if:

(1) Proof of continuous service is provided to the Tax Collector for the town.

(2) Three letters of reference from massage therapists licensed under this chapter or other licensed health care professionals, attesting to the sound moral character, professional qualifications and the competence of the person, are provided to the Tax Collector.

(3) An appropriate application is submitted under this chapter, and the individual pays the required license fee.

(B) In addition, any person previously licensed to engage in the business or profession of massage therapy in the town shall be exempt from the requirements of § 113.04(C), and shall be granted a license pursuant to the provisions of this chapter if:

(1) Proof of previous licensing is provided to the Tax Collector.

(2) The person pays the application fee.

(3) The license is renewed as required in this chapter on the first anniversary of the original issuance of the license.

(1997 Code, § 8-86)

**§ 113.11 RECIPROCITY.**

Any person who has been duly licensed in another state or municipality to practice massage therapy, which state or municipality has and maintains a standard of practice substantially the same or more stringent than that maintained under this chapter, and who has been lawfully and continuously engaged in the practice for 2 or more years immediately before filing his or her application to practice under this chapter, and who shall submit a duly attested license from the regulatory authority of the state or municipality in which he or she is registered, certifying to the fact of his or her registration, may be granted a massage therapist license to practice without otherwise being required to qualify.

(1997 Code, § 8-87) (Am. Ord. 2005-03-05, passed 3-21-2005)

**§ 113.99 PENALTY.**

Any person convicted of violating any provision of this chapter shall be guilty of a misdemeanor punishable by a fine of up to \$500 or 6 months in jail, or both.

(1997 Code, § 8-88)

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**CHAPTER 114: SEXUALLY ORIENTED BUSINESSES**

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Section

*General Provisions*

- 114.01 Purpose
- 114.02 Definitions

*Licensing*

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## GENERAL PROVISIONS

### § 114.01 PURPOSE.

(A) It is the purpose of this chapter to regulate sexually oriented businesses in order to protect public health, safety, and welfare of citizens and visitors and to establish reasonable and uniform regulations to prevent the deleterious location of sexually oriented businesses within the town. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials; similarly it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

(B) The following sections were designed to address 2 very distinct issues:

(1) The town wants to minimize the potential secondary impacts of sexually oriented businesses on those identified sensitive uses, i.e. residential districts, schools, churches, day care centers, and the like.

(2) The town wants to provide an area where people can exercise their First Amendment right to expression without infringing on other peoples' rights. In allowing these uses, the Town of Cape Carteret has had to balance its constitutional obligations with the need to guarantee that our local economy and quality of life is not impeded.

(Ord. passed 11-18-2002)

### § 114.02 DEFINITIONS.

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

**ADULT ARCADE.** Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to 5 or fewer persons per machine at any 1 time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

**ADULT BOOKSTORE.** A bookstore:

(1) Which receives a majority of its gross income during any calendar month from the sale of publications (including books, magazines, and other periodicals) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section; or

(2) Having as a preponderance of its publications books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section.

**ADULT CABARET.** A nightclub, bar, restaurant, or similar commercial establishment that for at least 10% of its business hours in any day features:

- (1) Persons who appear in a state of nudity or semi-nudity;
- (2) Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities;
- (3) Films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
- (4) Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

**ADULT ESCORT.** A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person for the purpose of participating in, engaging in, providing, or facilitating specified sexual activities.

**ADULT ESCORT AGENCY.** A person or business that furnishes, offers to furnish, or advertises to furnish adult escorts as 1 of its business purposes for a fee, tip, or other consideration.

**ADULT LIVE ENTERTAINMENT.** Any performance of or involving the actual presence of real people which exhibits specified sexual activities or specified anatomical areas, as defined in this section.

**ADULT LIVE ENTERTAINMENT BUSINESS.** Any establishment or business wherein adult live entertainment is shown for observation by patrons.

**ADULT MEDIA CENTER.** Adult media center includes, but is not limited to, an adult bookstore, and an adult video store and means any place:

- (1) Which receives more than 50% of its gross income during any calendar month from the sale, rental, or both of books, periodicals, magazines, video-tapes, CD-ROM, computer software, movies, or other products offered in photographic, print, electronic, magnetic, or digital or other imaging media which are distinguished or characterized by their emphasis on matter depicting, describing, or presenting specified anatomical areas as defined in G.S. § 14-202.10(10), or specified sexual activities as defined in G.S. § 14-202.10(11), or sexually oriented devices as defined in G.S. § 14-202.10(9), or any combination thereof; or
- (2) Having more than 25% of its merchandise inventory consisting of books, periodicals, magazines, video-tapes, CD-ROM, computer software, movies, and other products offered in photographic, print, electronic, magnetic, or digital or other imaging media which are distinguished or characterized by their emphasis on matter depicting, describing, or presenting specified anatomical areas as defined in G.S. § 14-202.10(10), or specified sexual activities as defined in G.S. § 14-202.10(11), or sexually oriented devices as defined in G.S. § 14-202.10(9), or any combination thereof. The 25% threshold described herein means 25% of the number of items, or 25% of the display space in which items are presented for sale, rental or both, or 25% of the wholesale value as reflected on the purchase records of the adult media center or 25% of the retail value of the items, it being the intent of this division (2) that any of the thresholds shall bring the adult media center within the operation of this chapter. A commercial establishment may have other business purposes on the same building site that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as adult media center. The other business purposes will not serve to exempt the commercial establishments from being categorized as an adult media center so long as 1 of its business purposes is the offering for sale or rental for consideration the

specified materials which depict or describe specified sexual activities or specified anatomical areas.

**ADULT MERCHANDISE.** Any product dealing in or with explicitly sexual material as characterized by matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

**ADULT MINI MOTION PICTURE THEATER.** An enclosed building with viewing booths designed to hold patrons which is used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined in this section, for observation by patrons therein.

**ADULT MOTEL.** A hotel, motel or similar commercial establishment that:

(1) Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public rights-of-way that advertises the availability of this adult type of photographic reproductions;

(2) Offers a sleeping room for rent for a period of time that is less than 12 hours; or

(3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 12 hours.

**ADULT MOTION PICTURE THEATER.** An enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by patrons therein. **ADULT MOTION PICTURE THEATER** does not include any adult mini motion picture theater as defined in this section.

**ADULT THEATER.** A theater, concert hall, auditorium, or similar commercial establishment that for at least 10% of its business hours in any day, features persons who appear in a state of nudity or live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.

**ADULT VIDEO STORE.** A commercial establishment that, as 1 of its principal business purposes, offers for sale or rental for any form of consideration any 1 or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video tapes or cassettes, video reproductions, CD-ROMs, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or any combination thereof.

**BOTTOMLESS.** A state of nudity or semi-nudity where a person exposes to view a human bare buttock, anus, male genitals, or female genitals.

**EMPLOYEE OF A SEXUALLY ORIENTED BUSINESS.** A person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not the person is paid a salary, wage, or other compensation by the operator of the business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

**LAP.** The area between a person's knees and his or her waist.

**NON-ADULT USE BUSINESSES.** Any business or establishment not defined as a sexually oriented business in this section and in § 156.046(G), definitions and specific terms, of the zoning chapter. **NON-ADULT USE BUSINESSES** shall not display or merchandise adult, sexually oriented implements and paraphernalia, including, but not limited to: dildos, auto sucks, sexually oriented vibrators, edible underwear, benwa balls, inflatable orifices, anatomical balloons with orifices, simulated and battery operated vaginas, and similar sexually oriented devices.

**NUDE MODEL STUDIO.** Any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. There is excepted from this definition any studio which is part of a school for artists who are regularly enrolled in a course of instruction in the arts, in which the use of nude models involves less than 10% of the course hours.

**NUDITY or STATE OF NUDITY.** The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state even if completely and opaquely covered.

**PATRON.** Any person who is physically present on the premises of a sexually oriented business and who is not an owner, employee, agent, subcontractor, or independent contractor of the business, or any entertainer or performer at the business.

**SEMI-NUDE.** A state of dress in which clothing covers no more than the human bare buttock, anus, male genitals, female genitals, or female breast at a fully opaque complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state even if completely and opaquely covered.

**SEXUALLY ORIENTED BUSINESS.** A business which offers its customers or patrons any device, activity or demonstration depicting specified sexual activities, or which is intended to appeal to sexual interests, titillation or arousal of the customer or patron. A sexually oriented business shall include an adult establishment as defined in G.S. § 14-202.10(2) and, in addition, without limitation: adult arcade, adult bookstore, adult video store, adult cabaret, adult media center, adult live entertainment business, adult motel, adult motion picture theater, adult mini motion picture theater, adult theater, adult escort agency, and nude model studio.

**SEXUALLY ORIENTED BUSINESS ACTIVITIES.** Those activities usually provided for, promoted, or offered by a sexually oriented business as defined herein, whether or not as the principal business purpose or as a sideline or accessory business purpose and whether or not in connection with or on the same premises with a business which is not a sexually oriented business.

**SEXUALLY ORIENTED DEVICES.** Any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.

**SPECIFIED ANATOMICAL AREAS.**

- (1) Less than completely and opaquely covered:
  - (a) Human genitals, pubic region;
  - (b) Buttock; or
  - (c) Female breast below a point immediately above the top of the areola.

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

***SPECIFIED SEXUAL ACTIVITIES.***

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy;
- (3) Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts; or
- (4) Penetration of any person's anus or any female person's vaginal opening with any object whether animate or inanimate.

***TOUCH*** or ***TOUCHING.*** Any form of intentional, physical, bodily contact, whether exposed or clothed parts of either body are involved.

(Ord. passed 11-18-2002)

## **LICENSING**

### **§ 114.15 LICENSING OF SEXUALLY ORIENTED BUSINESSES.**

The following license provisions and regulations are ordained for the purpose of operating a sexually oriented business:

(A) No person shall operate a sexually oriented business unless the person has received a sexually oriented business license as provided by this section.

(B) Every application for a sexually oriented business license prescribed herein shall be upon a form approved by the town and shall be filed with the Town Clerk. An application shall be made under oath and shall contain the following information:

(1) If the applicant is a natural person, the name and residence address of the person including any aliases or other names by which the applicant is known or which the applicant has used at any time; the residence and business addresses for the past 2 years, the business and home telephone numbers, occupation, date and place of birth, social security number, drivers license number, and a recent photograph of the applicant. If the applicant is a partnership, corporation, association, or other entity the same information is a requirement for all corporate officers, directors, and any individuals having a 10% or greater interest in the corporation, partnership, association, or other entity.

(2) The address of the premises where the proposed sexually oriented business is proposed to be located.

(3) A complete statement of all convictions of any person whose name is required to be given in division (B)(1) above for any sexually related crime; prostitution or any violation of any law relative to prostitution; or of any crime involving sexual misconduct as codified in the laws of the United States, this or any other state, including, but not limited to convictions of violations of any crime of moral turpitude, any offense under G.S. Ch. 90, any crime of moral turpitude or the same offenses as codified in the laws of the United States or of any other state.

(4) A complete statement of any denial and/or revocation of any license, including the grounds and reasons theretofore, to operate a sexually oriented business by any

governmental unit listed by name and address of any person whose name is required to be given in division (B)(1) above for the 5 years preceding the date of the filing of this application.

(5) A complete statement of any conviction for violation of any statute, law, ordinance or regulation concerning the operation of a sexually oriented business by any governmental unit listed by name and address of any person whose name is required to be given in division (B)(1) above for the 5 years preceding the date of the filing of this application.

(6) A description of any other business proposed to be operated on the same premises or on adjoining premises owned or controlled by the applicant or any other person or entity listed in division (B)(1) above.

(7) All applicants, and any individual listed in division (B)(1) above, shall submit to fingerprinting by a Carteret County Sheriff. The fingerprint cards shall be submitted to the State Bureau of Investigation for processing. Returned fingerprint cards and any criminal histories shall be kept on file in the Town of Cape Carteret.

(8) A site plan showing the floor layout, customer area, and location of the structure to be used as a sexually oriented business on the property in accordance with all the requirements outlined in this chapter.

(9) A current certificate and straight-line drawing prepared by a registered land surveyor depicting the property lines and the structure containing the proposed sexually oriented business and its distance from existing land uses to include, but not be limited to: residential zoning districts, other sexually oriented business, churches or any structure or building being used as a church or religious facility, libraries, schools, state licensed child day care centers, public playgrounds, public swimming pools, public parks, and any outdoor recreational use.

(10) A statement signed under oath that the applicant has personal knowledge of the information contained in the application, that the information contained therein is true and correct, the applicant consents to the investigation of his or her background by the Town of Cape Carteret to verify the information provided, and that the applicant has read and understands the provisions of this chapter regulating sexually oriented businesses.

(C) In addition to the above requirements, every licensed sexually oriented business shall maintain a current list of all employees employed by the licensee showing: the legal name, current stage name, current address, current phone number, date of birth, and current driver's license number. In addition the licensee of a sexually oriented business shall maintain a record updated at least every 6 months of the height, weight, hair and eye color, scars, tattoos and a passport quality photograph of each employee.

(D) The records required by this section shall be kept available and open for inspection by the Police Department at any time, or the state or county health departments, or by the Director of Planning and Development or his or her authorized representative at any time the sexually oriented business is open for business.

(Ord. passed 11-18-2002)

#### **§ 114.16 ISSUANCE OF LICENSE.**

(A) The Town Clerk shall transmit a copy of the completed application, containing all the required information outlined in this section to the Carteret County Sheriff's department for an investigative report, the Planning Board to determine compliance with all zoning, building

regulations, and ordinances, and the Western Carteret Fire Department to determine compliance with any law relating to fire protection.

(B) The Sheriff, Planning Board, and Fire Department shall, within a reasonable time not to exceed 45 working days, report the results of their examinations to the Town Clerk.

(C) If the Sheriff, Planning Board, and Fire Department do not respond within 45 working days to the Town Clerk then the application and conditional use site plan is to be deemed to meet the approval of any non-responding Department or Board.

(D) A completed application accompanied by all required information outlined in this section and all reports and recommendations as outlined in this section, shall be submitted to the Town Clerk and placed on the agenda of the next regularly scheduled Board of Commissioners meeting.

(E) Upon the receipt of the application for a sexually oriented business license, the Board of Commissioners shall review the conditional use application, the site plan, and the sexually oriented business license application and approve the issuance of the license if the Board determines that:

(1) The application contains no misstatement of fact.

(2) Neither the applicant nor any person or entity having any legal or beneficial ownership interest in the application, has not been convicted of a sexually related crime, prostitution or a violation of any law relative to prostitution, crime involving sexual misconduct as codified in the laws of the United States, this or any other state, including, but not limited to convictions of violations of any crime of moral turpitude, any offense under G.S. Ch. 90, any crime of moral turpitude or the same offenses as codified in the laws of the United States or any other state.

(3) The applicant conforms to all requirements of applicable zoning, building, and fire prevention codes.

(4) Neither the applicant nor any person, corporation, partnership, association or other entity having a legal or beneficial ownership interest in the applicant has, within the 5-year period preceding the application, had a previously issued license for engaging in any sexually oriented business that has been suspended or revoked anywhere.

(F) If the Board of Commissioners has not approved or denied the sexually oriented business application within 60 days from receiving the completed application and conditional use application, the license shall be deemed granted.

(Ord. passed 11-18-2002)

#### **§ 114.17 ANNUAL BUSINESS LICENSE.**

(A) A license granted pursuant to this chapter shall be subject to annual review upon the written application of the applicant and a finding by the town that the applicant has not been convicted of any specified criminal activity as defined within this chapter or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in § 114.18.

(B) The license required under this chapter is annual and shall be valid for a period of 12 months. The license fees shall be due and payable in the same manner as prescribed for other privilege licenses issued by the town.

(C) Application for renewal of a business license shall be made at least 30 days before the expiration date to the Town Tax Collector. When made less than 30 days before the expiration date, the expiration of the license will not be affected.

(D) Any violation of the licensing provisions in this chapter will result in the denial of the renewal application.

(E) All licenses shall be issued for a business conducted at a specific location and all fees shall be non-refundable and shall be nontransferable to any person, partnership, corporation, association, or other entity.

(Ord. passed 11-18-2002)

#### **§ 114.18 FEES.**

(A) Every application for a sexually oriented businesses license, whether for a new license or for renewal of an existing license, shall be accompanied by a non-refundable application and investigation fee as enumerated in the consolidated fee schedule, a copy of which is on file in the office of the Clerk and is available for public inspection and copying.

(B) Sexually oriented businesses shall be required to pay all applicable business and privilege license fees.

(Ord. passed 11-18-2002)

#### **§ 114.19 INSPECTION OF SEXUALLY ORIENTED BUSINESS.**

An applicant or licensee shall permit representatives of the Sheriff's Department, Western Carteret Fire Department, the Town of Cape Carteret Planning and Development Department, or the Carteret County Health Department to inspect the premises of any sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business. Failure or refusal by any person to permit a lawful inspection of the premises during regular business hours shall be punishable in accordance with town code and in addition may result in the revocation of the privilege license.

(Ord. passed 11-18-2002)

#### **§ 114.20 DENIAL OR REVOCATION OF LICENSE.**

(A) Before the Board of Commissioners revokes a license issued pursuant to this chapter, or if the Board of Commissioners determines reasonable grounds exist to deny an application for a license pursuant to this chapter, the Board of Commissioners shall cause a written notice to be sent by certified mail to the licensee or applicant affected, at the address stated in the license or application. The notice shall advise the affected party of a right to appear before the Board of Commissioners, with or without legal counsel, at a stated time and place for the purpose of presenting any evidence relevant to the revocation or denial and for the purpose of hearing all evidence submitted and examining or cross-examining any person providing the evidence.

(B) A license issued pursuant to this section may be revoked by action of the Board of Commissioners if the Board of Commissioners determines that:

(1) The licensee has violated any provision of this chapter.

(2) The licensee, or the legal or beneficial owner of any interest in the licensee is convicted of any felony; prostitution or any violation of any law relative to prostitution; crime involving sexual misconduct; as codified in the laws of the United States, this or any other state, including, but not limited to convictions of violations of any crime of moral turpitude, any offense under G.S. Ch. 90, or the same offenses as codified in the laws of the United States or any other state.

(3) Any employee or contract personnel of the licensee is convicted of any felony; prostitution or any violation of any law relative to prostitution; crime involving sexual misconduct; or any offense against public morality and decency as codified in the laws of the United States, this or any other state, including, but not limited to convictions of violations of any of the offenses enumerated in G.S. §§ 14-26, 26A, and 27, any crime of moral turpitude, any offense under G.S. Ch. 90, or the same offenses as codified in the laws of the United States or any other state, which arises out of, or in the course of the business of the licensee.

(4) The licensee has knowingly, willingly, or intentionally operated a sexually oriented business during a period of time when the licensee's license was suspended for any reason.

(5) The licensee has knowingly, willingly, or intentionally allowed prostitution on the premises.

(6) The licensee has knowingly, willingly, or intentionally violated state ABC laws, being G.S. Ch. 18B.

(C) A license issued pursuant to this chapter is immediately terminated and of no further force and effect if the licensee moves or ceases operating a sexually oriented business at the location stated in the application for license pursuant to this section. For the purposes of this chapter, indicators of the cessation of operation shall include but not be limited to:

(1) Cessation of town or commercial water service; or

(2) Cessation of legally provided electrical service provided and consumed for the use in question for a period of 2 consecutive months.

(D) When the town revokes a license, the revocation shall continue for 1 year and the licensee shall not be issued a sexually oriented business license for 1 year from the date the revocation became effective. If, subsequent to revocation, the town finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

(E) After denial of an application, or denial of a renewal of an application or revocation of any license, and all administrative measures have been exhausted, the applicant or licensee may seek immediate judicial review of the board action in the Superior Court of Carteret County.

(Ord. passed 11-18-2002)

## **§ 114.21 POSTING OF LICENSE.**

Every person, corporation, partnership, or association licensed under this chapter shall display the license in a prominent place.

(Ord. passed 11-18-2002)

## **REGULATIONS AND OPERATION**

### **§ 114.35 LOCATION OF SEXUALLY ORIENTED BUSINESS.**

(A) As specified in the Town of Cape Carteret Zoning Ordinance, a sexually oriented business may not:

- (1) Locate within 1,000 feet in any direction from a residential zoning district;
- (2) Locate within 1,000 feet in any direction from a building in which a sexually oriented business is located;
- (3) Locate within 1,000 feet in any direction from a building in which a church is located;
- (4) Locate within 1,000 feet in any direction from a building in which a library, school, or a state licensed child day care center is located; and
- (5) Locate within 1,000 feet in any direction from any lot or parcel on which a public playground, public swimming pool, public ocean or estuarine access, or public park is located.

(B) Measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted to the nearest portion of a building or structure of a use listed above.

(Ord. passed 11-18-2002) Penalty, see § 10.99

### **§ 114.36 HOURS OF OPERATION.**

(A) No sexually oriented business shall be open for business before 8:00 a.m. or after 2:00 a.m. daily, local time.

(B) No business, nor any owner, agent or employee, licensed under § 114.16 shall admit customers or prospective customers, or remain open for business, or allow, permit or condone any customer or patron upon the premises of a sexually oriented business before 8:00 a.m. or after 2:00 a.m. daily, local time.

(Ord. passed 11-18-2002) Penalty, see § 10.99

### **§ 114.37 PATRONAGE OF SEXUALLY ORIENTED BUSINESS BY MINORS AND EMPLOYMENT OF MINORS.**

(A) No business, nor any owner, agent, or employee, licensed under this chapter shall allow, permit or condone the patronage of any person under the age of 18 years upon the licensed premises. A violation of this division (A) shall be grounds for revocation of any license issued to the violator pursuant to this chapter.

(B) No business, corporation, partnership, association, or other entity licensed pursuant to this chapter shall employ any person under the age of 18 years. A violation of this division (B) shall be grounds for revocation of any license issued to the violator pursuant to this chapter.

(Ord. passed 11-18-2002) Penalty, see § 10.99

### **§ 114.38 REGULATIONS PERTAINING TO SEXUALLY ORIENTED BUSINESSES.**

(A) A person who operates or causes to be operated a sexually oriented business which exhibits on the premises a film, video cassette, live entertainment, sells adult oriented merchandise including books, magazines, novelty items, computer software, videos, or shows other video reproductions which depicts specified sexual activities shall comply with the following requirements:

(1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of 1 or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place in which the business license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall be required; however, each diagram should be oriented to the north or to some designated street and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal inches.

(2) No alteration in the configuration of a manager's station may be made without prior approval of the Zoning Enforcement Officer or other person as he or she or the Board of Commissioners may designate from time to time.

(3) It is the duty of the owners and operator of the premises to ensure that at least 1 employee is on duty and situated in each manager's station at all times when a patron is inside the premises to ensure that no illegal activity is taking place within the establishment.

(4) The interior of the premises shall be configured in a manner that there is an unobstructed view from a manager's station of the entire area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction or surveillance equipment, books, or any items offered for sale. If the premises has 2 or more manager's stations, then the interior of the premises shall be configured in a manner that there is an unobstructed view of the entire area of the premises to which any patron is permitted access for any purpose from at least 1 of the manager's stations, excluding restrooms. The view required in this division (A)(4) shall be by direct line of sight from the manager's station.

(5) It shall be the duty of the owner(s) and operator(s), and it shall be the duty of any agent(s) and employee(s) present in the premises, to ensure that the view area specified in division (A)(4) above remains unobstructed by any doors, walls, merchandise, display racks, or other materials at all times and to ensure that no patron is permitted access to any area of the premises that has been designated as off limits to patrons.

(6) Sexually oriented businesses shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access. It shall be the duty of the owners and operator, and it shall be the duty of any agents and employees

present in the premises, to ensure that this illumination is maintained at all times when any patron is present within the premises.

(7) Adult motion picture theaters, adult mini motion picture theaters, and adult theaters shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access. It shall be the duty of the owners and operator, and it shall be the duty of any agents and employees present in the premises, to ensure that this illumination is maintained at all times when any patron is present within the premises.

(8) Adult motion picture theaters and adult theaters shall be in an enclosed building with no less than 100 fixed seats. No private viewing rooms or semi-private booths are allowed.

(9) An adult mini motion picture theater shall not allow more than 1 person in a viewing room at any time.

(10) No owner or operator shall allow openings of any kind to exist between viewing rooms within an adult mini motion picture theater.

(11) The owner or operator of an adult mini motion picture theater shall, during each business day, regularly inspect the walls between the viewing rooms to determine if any openings or holes exist.

(12) The owner or operator of an adult mini motion picture theater shall cause all floor coverings in viewing rooms to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(13) The owner or operator of an adult mini motion picture theater shall cause all wall and ceiling surfaces in viewing rooms to be constructed of, or permanently covered by, nonporous, easily cleanable material.

(B) A person having a duty under divisions (A)(1) through (13) above is in violation of this chapter if he or she knowingly, willfully, or intentionally fails to fulfill that duty. (Ord. passed 11-18-2002) Penalty, see § 10.99

### **§ 114.39 PROHIBITED CONDUCT ON PREMISES OF SEXUALLY ORIENTED BUSINESSES.**

(A) It shall be a violation of this chapter for any person in a sexually oriented business to appear in a state of full nudity or to depict specified sexual activities.

(B) No owner, operator, manager, employee, entertainer or contract personnel, nor any customer or patron, shall appear bottomless or in a state of full nudity while on the premises of a sexually oriented business.

(C) No owner, operator, manager, employee, entertainer or contract personnel, nor any customer or patron, shall perform any specified sexual activities as defined in this chapter, wear or use any device or covering exposed to view which stimulates or simulates any specified anatomical area, use artificial devices or inanimate objects to perform or depict any of the specified sexual activities, as defined in this chapter, or participate in any act of prostitution while on the premises of a sexually oriented business.

(D) No owner, operator, manager, employee, entertainer or contract personnel, nor any customer or patron, shall knowingly touch, fondle or caress any specified anatomical area of another person, knowingly permit another person to touch, fondle or caress any specified anatomical area of his or hers, whether the specified anatomical areas are clothed, unclothed,

covered or exposed, or sit on or in or otherwise occupy the lap of anyone while on the premises of a sexually oriented business.

(E) No owner, operator, manager, employee, entertainer or contract personnel shall knowingly or intentionally appear in a semi-nude condition unless the person, while semi-nude, is at least 10 feet from any patron or customer and on a stage that is at least 2 feet from the floor.

(F) No employee shall solicit any pay or gratuity from any patron or customer while the employee is in a state of semi-nudity while on the premises of a sexually oriented business.

(G) No private dance, viewing, projection or meeting areas shall be allowed within a sexually oriented business.

(Ord. passed 11-18-2002) Penalty, see § 10.99

#### **§ 114.40 REGULATIONS PERTAINING TO THE EXTERIOR PORTIONS OF SEXUALLY ORIENTED BUSINESSES.**

It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from any point outside the establishment.

(Ord. passed 11-18-2002) Penalty, see § 10.99

## **CHAPTER 115: BODY PIERCING**

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### Section

#### *General Provisions*

- 115.01 Intent
- 115.02 Definitions

#### *Licensing*

- 115.15 Licensing of body piercing establishments
- 115.16 Issuance of license
- 115.17 Annual business license
- 115.18 Revocation
- 115.19 Fees
- 115.20 Inspection of body piercing business
- 115.21 Posting of license

#### *Regulations and Operation*

- 115.35 Hours of operation
- 115.36 Patronage of body piercing business by minors and employment of minors
- 115.37 Regulations pertaining to body piercing businesses
- 115.38 Records to be maintained on activities
- 115.39 Regulations pertaining to exterior portions of body piercing businesses
- 115.40 Alcoholic beverages prohibited

## GENERAL PROVISIONS

### § 115.01 INTENT.

It is the purpose of this chapter to regulate body piercing establishments or those establishments that offer body piercing activities within the Town of Cape Carteret in order to protect public health, safety, and welfare of citizens and visitors and to establish reasonable and uniform regulations.

(Ord. passed 10-18-2004)

### § 115.02 DEFINITIONS.

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

**BODY PIERCING.** Refers to any method of piercing of the skin for the express intention of the insertion of any object including, but not limited to, jewelry. This definition is not meant to include the piercing of the lobes of the ears, as hereinafter defined, and physician authorized surgical procedures, both activities that are specifically excluded from the purview of this chapter.

**EAR PIERCING.** The piercing of the fatty lobe part of the ear by an ear piercing gun. The piercing of any other part of the ear, or the use of any other procedure other than the ear piercing gun, shall be considered body piercing.

**LICENSEE.** An individual, firm, corporation, company, or association that applies for a body piercing license for the purpose of owning and operating a facility offering body piercing services to the general public.

**OSTEOPATH.** Includes any person authorized to practice osteopathic medicine pursuant to the laws of the State of North Carolina.

**PATRON.** Any person over the age of 18 years of age who receives a body piercing under the circumstances that it is reasonably expected that he or she will pay money or give any other consideration for the body piercing or the object to be inserted therein.

**PHYSICIAN.** Includes any person authorized to practice medicine pursuant to the laws of the State of North Carolina.

**PHYSICIAN AUTHORIZED SURGICAL PROCEDURE.** Any surgical procedure authorized by a licensed physician or osteopath pursuant to the laws of the State of North Carolina.

(Ord. passed 10-18-2004)

## LICENSING

### § 115.15 LICENSING OF BODY PIERCING ESTABLISHMENTS.

## Cape Carteret, NC Code of Ordinances

(A) The following license provisions and regulations are ordained for the purpose of operating a body piercing business or for offering body piercing services at a legally established jewelry store.

(B) No person shall engage in the business of, or operate, a body piercing business or offer the services unless the person has received a body piercing business license as provided by this section.

(1) No person shall perform or offer to perform body piercing services at any body piercing business unless the person is a licensed osteopath or physician pursuant to the laws of the State of North Carolina.

(2) Every application for a body piercing business license prescribed herein shall be upon a form approved by the Town Manager and shall be filed with the Town Clerk. An application shall be made under oath and shall contain the following information:

(a) If the applicant is a person, the name and residence address of the person including any aliases or other names by which the applicant is known or which the applicant has used at any time; the residence and address for the past 2 years, the business and home telephone numbers, occupation, date and place of birth, social security number, drivers license number, and a recent photograph of the applicant. If the applicant is a partnership, corporation, association, or other entity the same information is a requirement for all corporate officers, directors, and any individuals having a 10% or greater interest in the corporation, partnership, association, or other entity;

(b) The address of the premises where the proposed body piercing business is proposed to be located;

(c) A description of any other business proposed to be operated on the same premises or on adjoining premises owned or controlled by the applicant or any other person or entity listed in division (B)(2)(a) above;

(d) Every licensed body piercing business shall maintain a current list of all employees, including the identified osteopath, physician, or physicians assistant directly responsible for performing the daily body piercing activities, employed by the licensee showing: the legal name, current address, current phone number, date of birth, and current driver's license number;

(e) A statement signed under oath that the applicant has personal knowledge of the information contained in the application, that the information contained therein is true and correct, the applicant consents to the investigation of his or her background by the Town of Cape Carteret to verify the information provided, and that the applicant has read and understands the provisions of this chapter regulating body piercing businesses; and

(f) The records required by this section shall be kept available and open for inspection by the Police Department at any time, or the state or County Health Departments, or by the Director of Planning and Development or his or her authorized representative at any time the body piercing business is open for business.

(Ord. passed 10-18-2004)

### **§ 115.16 ISSUANCE OF LICENSE.**

(A) The Town Clerk shall transmit a copy of the completed application, containing all the required information to the Police Department for an investigative report, the Planning

Department to determine compliance with all zoning, building regulations, and ordinances, and the Fire Department to determine compliance with any law relating to the fire protection.

(B) The Police and Planning Departments shall, within a reasonable time not to exceed 25 working days, report the results of their examinations to the Town Clerk.

(C) If the Police and Planning Departments do not respond within 25 working days to the Town Clerk then the application is to be deemed to meet the approval of the Police, Planning, and Fire Departments.

(D) Upon the receipt of the application for a body piercing business license, and the departmental reports, the Town Clerk shall review the application and approve the issuance of the license subject to the following criteria:

(1) The application contains, no misstatement of fact;

(2) The operation, as proposed by the applicant, complies with all applicable zoning and licensing criteria;

(3) The applicant has not had a licensee to operate a body piercing business denied, revoked, or suspended for any violation of the regulations outlined within this section or for violating any applicable state or federal agency laws or regulations within 2 years prior to the date of the submitted request;

(4) The applicant has a duly licensed osteopath or physician to perform the body piercing pursuant to the laws of the State of North Carolina; and

(5) The applicant and all identified employees are over the age of 18.

(Ord. passed 10-18-2004)

#### **§ 115.17 ANNUAL BUSINESS LICENSE.**

(A) A license granted pursuant to this section shall be subject to annual review upon the written application of the applicant and a finding by the town that the applicant has not violated any condition outlined within this section of the ordinance or any and all applicable state or federal laws. The renewal of the license shall be subject to the payment of the fee as set forth in this chapter.

(B) The license required under this chapter is annual and shall be valid for a period of 12 months. The license fees shall be due and payable in the same manner as prescribed for other privilege licenses issued by the town.

(C) Application for renewal of a business license shall be made at least 30 days before the expiration date to the Town Tax Collector. When made less than 30 days before the expiration date, the expiration of the license will not be affected.

(D) Any violation of the licensing provisions in this chapter will result in the denial of the renewal application.

(E) All licenses shall be issued for a business conducted at a specific location and all fees shall be non-refundable and shall be nontransferable to any person, partnership, corporation, association, or other entity.

(Ord. passed 10-18-2004)

#### **§ 115.18 REVOCATION.**

Any license issued pursuant to this chapter shall be subject to suspension or revocation by the town for violation of any provision of this chapter for any grounds that would warrant the denial of issuance of the license in the first place. The town, upon the revocation or suspension, shall state the reasons for the action in writing specifying the particular grounds for the revocation or suspension. Any person aggrieved by a decision may appeal, in writing, within 30 days of the decision to the Town of Cape Carteret Board of Commissioners who shall hold a hearing to review the complaint at the next regularly scheduled meeting.  
(Ord. passed 10-18-2004)

**§ 115.19 FEES.**

Body piercing businesses shall be required to pay all applicable business and privilege license fees. A schedule of business and privilege license fees shall be on file in the office of the Clerk and is available for public inspection and copying.  
(Ord. passed 10-18-2004)

**§ 115.20 INSPECTION OF BODY PIERCING BUSINESS.**

An applicant or licensee shall permit representatives of the Cape Carteret Police Department, Planning and Development Department, other town departments or agencies, or the Carteret County Health Department to inspect the premises of any body piercing business for the purpose of insuring compliance with the law, at any time it is occupied or open for business. Failure or refusal by any person to permit a lawful inspection of the premises during regular business hours shall be punishable in accordance with the town code and in addition may result in the revocation of the privilege license.  
(Ord. passed 10-18-2004)

**§ 115.21 POSTING OF LICENSE.**

Every person, corporation, partnership, or association licensed under this section shall display the license in a prominent place.  
(Ord. passed 10-18-2004)

**REGULATIONS AND OPERATION**

**§ 115.35 HOURS OF OPERATION.**

No body piercing business shall be open for business before 8:00 a.m. or after 10:00 p.m. daily, local time.  
(Ord. passed 10-18-2004) Penalty, see § 10.99

**§ 115.36 PATRONAGE OF BODY PIERCING BUSINESS BY MINORS AND EMPLOYMENT OF MINORS.**

(A) No business, nor any owner, agent, or employee, licensed under this chapter shall allow, permit or condone the patronage of any person under the age of 18 years upon the licensed premises unless the person is accompanied by 1 of his or her adult parents or legal guardian who authorizes, in writing, the body piercing. A violation of this division (A) shall be grounds for revocation of any license issued to the violator pursuant to this chapter.

(B) No business, corporation, partnership, association, or other entity licensed pursuant to this chapter shall employ any person under the age of 18 years. A violation of this division (B) shall be grounds for revocation of any license issued to the violator pursuant to this chapter.

(Ord. passed 10-18-2004) Penalty, see § 10.99

**§ 115.37 REGULATIONS PERTAINING TO BODY PIERCING BUSINESSES.**

All body piercing businesses shall adhere to all applicable state, federal, and OSHA regulations. Any deviation from these regulations shall result in the immediate revocation of the business license as outlined within this section.

(Ord. passed 10-18-2004)

**§ 115.38 RECORDS TO BE MAINTAINED ON ACTIVITIES.**

Each body piercing establishment shall maintain permanent records for each patron. Before the body piercing operation begins, the patron shall be required personally to enter on a record form provided for the establishments all vital information including name, age, address, and telephone number. The patron shall also be required to certify that he or she is not currently infected with hepatitis or jaundice, or if recently infected, the dates of treatment. The records shall be maintained on the premises for a period of no less than 2 years and shall be available for examination by the Carteret County Health Department, State of North Carolina Department of Health and Human Services, or any designated representative of the Town of Cape Carteret.

(Ord. passed 10-18-2004)

**§ 115.39 REGULATIONS PERTAINING TO EXTERIOR PORTIONS OF BODY PIERCING BUSINESS.**

It shall be unlawful for an owner or operator of a body piercing business to allow the merchandise or activities of the establishment to be visible from any point outside the establishment. Any and all signage displayed by the business shall be subject to the sign regulations as outlined within chapter 153.

(Ord. passed 10-18-2004) Penalty, see § 10.99

**§ 115.40 ALCOHOLIC BEVERAGES PROHIBITED.**

The owner/operator of a licensed body piercing business shall not sell or allow the sale, distribution, consumption, provision of any alcoholic beverage or other drugs or controlled substances on the premises of the body piercing business.  
(Ord. passed 10-18-2004) Penalty, see § 10.99

**CHAPTER 116: (RESERVED)**

**CHAPTER 117: SPECIALTY MARKET VENDORS**

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Section

- 117.01 Definitions
- 117.02 Peddlers and itinerant merchants prohibited
- 117.03 Specialty market vendors
- 117.04 Secondhand goods
  
- 117.99 Penalty

**§ 117.01 DEFINITIONS.**

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

**APPLICANT.** Any person, firm, association, corporation, limited liability company, partnership or proprietorship. Any of these under common ownership or in which the same 3 or less persons own the majority interest shall be considered the same applicant.

**GARAGE SALE.** A sale from a residence or residential property of personal property, which has been owned or used previously by an individual or resident residing on the premises where the sale is conducted. A yard or patio sale is included within the definition of **GARAGE SALE**. The term **GARAGE SALE** does not include the mere incidental sale of 1 or 2 items of personal property when the sale is not a part of a general sale of a number of items of personal property.

**GOODS.** Anything of value offered for sale.

**ITINERANT MERCHANT/TRANSIENT MERCHANT/ITINERANT VENDOR.**

Any person other than a merchant with an established retail store in the town, who transports an inventory of goods to a building, vacant lot, or other location in the town, and who, at that location, displays the goods for sale and sells or offers to sell the goods at retail including, without limitation, a merchant who sells goods at such location for less than 6 consecutive months.

**PEDDLER.** Any person engaged in business with no fixed place of business and who travels from place-to-place with an inventory of goods, which sells the goods at retail or offers the goods for sale at retail and who delivers the identical goods carried with him/her. Included is anyone who offers any articles of goods or merchandise for sale from house-to-house, or business to business by any person on foot, from a cart, truck, automobile or other vehicle operated over and upon the streets/highways.

**PERSON.** Any individual, partnership, corporation, limited liability company, firm, joint venture, professional association or associations.

**SPECIALTY MARKET VENDOR.** Any person other than a merchant with an established retail store in the town, who rents space from a commercial property owner, at a location other than a permanent retail store, who transports an inventory of goods to a building, vacant lot or other location in the town's business districts, for the purpose of selling goods at retail or offering goods for sale at retail.

(Ord. 2013-01-01, passed 1-21-2013; Am. Ord. 2014-07-04, passed 7-21-2014)

## **§ 117.02 PEDDLERS AND ITINERANT MERCHANTS PROHIBITED.**

Peddlers and itinerant merchants, as defined in this chapter, are prohibited from operating in the town except by application and approval of a conditional use permit issued by the Board of Commissioners in accordance with §§ 156.070 and 156.071.

(Ord. 2013-01-01, passed 1-21-2013)

## **§ 117.03 SPECIALTY MARKET VENDORS.**

(A) *Exemptions and Special Provisions.* The following persons or firms are exempt from the provisions of this chapter:

- (1) Sellers of farm or nursery products they produce or seafood they catch;
- (2) Seller of crafts or goods they or their household produced;
- (3) Nonprofit charitable, educational, religious, scientific or civic organizations and sellers at events sponsored by them;
- (4) A specialty market vendor at a specialty market operated by the state or a local government;
- (5) Sellers located at farmer's market;
- (6) One who sells goods at an auction conducted by an auctioneer licensed in compliance with G.S. Chapter 85B.
- (7) Specialty market vendors selling within a permanent building meeting all building, zoning and health code requirements.

(B) *Fees for Specialty Market Vendors.* It shall be unlawful for a specialty market vendor to engage in such business within the town without obtaining a privilege license from the Town Clerk.

(C) *Application and Licenses.*

- (1) Applicants for a license under this chapter shall pay the fee specified in the fee schedule adopted by the Town Council and shall file with the Town Clerk or his or her

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designee a sworn application in writing on a form to be furnished by the Town Clerk or his or her designee which shall:

- (a) Give the name of the business and applicant's permanent address;
- and
- (b) Give the permanent name and address of person(s), firm or corporation being represented; and
- (c) Include the proposed location and written permission and/or copy of contract from the property owner or his or her or its authorized agent to use the property/place where goods or property are proposed to be sold, or orders taken for the sale thereof; and
- (d) Provide a brief description of the nature of the business and the merchandise to be sold; and
- (e) Provide current state issued driver's license or other form of photo identification; and
- (f) Provide proof of sales tax reporting number issued by the North Carolina Department of Revenue; and
- (g) Provide proof of liability insurance; and
- (h) Post a \$5,000 surety bond issued by a surety company licensed to do business in North Carolina payable to the Town of Cape Carteret and approved by the Town Attorney as to form to provide payment of any and all penalties provided by this chapter and to protect members of the public by providing a fund from which payment of court orders or judgments may be made. Such bond shall be in effect for a period of one year from the date that a license is issued to the applicant.

(2) Licenses shall cover the 12-month period beginning July 1 of each calendar year and ending June 30 of the subsequent calendar year, and not more than one license may be issued to any specialty market vendor in any 12-month period. Licenses may not be transferred, and the license shall not be extended by the opening of other or additional locations.

(D) *Regulations Generally.* Anyone holding a specialty market vendor license shall comply with the following:

(1) Specialty market vendors must remove his or her goods, trailer(s), trucks, buses, vehicles, tables, coolers, ice machines, tents, refrigerators, lighting, flags/pennants, signs, etc., from the premises each day by 9:00 p.m. This provision shall not apply to those specialty market vendors selling within a permanent building meeting all building, zoning and health code requirements.

(2) Specialty market vendors shall not place any food, wares, or articles of goods on any municipally owned or occupied property nor within the public street and highway rights-of-way, nor, without the written consent of the owner thereof, on parking lots and other outdoor areas open to the public;

(3) Specialty market vendors shall not place more than 1 freestanding sign per lot on any 1 street in order to advertise/identify the location of the specialty market vendor (signs must be in accordance with Chapter 153 of the Land Usage title;

(4) Specialty market vendors shall not sell or offer for sale any article of goods from any location prior to 7:00 a.m. or after 8:00 p.m. each day;

(5) Specialty market vendors shall not sell nor offer for sale any goods except in a zoning district in which specialty market vendors are permitted;

(6) Specialty market vendors shall not transfer a license of or to another person, firm or corporation.

(Ord. 2013-01-01, passed 1-21-2013)

**§ 117.04 SECONDHAND GOODS.**

Garage sales are permitted only insofar as they are conducted consistent with the limitations set forth as follows and pursuant to a permit granted at no charge by the Town Zoning Enforcement Officer:

(A) No more than 3 garage sales shall be conducted on the premises in any calendar year. However, a fourth garage sale shall be permitted if satisfactory proof of a bona fide change in ownership of the real property is first presented to the Zoning Enforcement Officer or his or her duly authorized representative. No single sale shall be conducted for longer than 2 consecutive weekends, or 72 hours, whichever is the less. Garage sales may be conducted during daylight hours only.

(B) Except as provided in this division (C) signs used in conjunction with garage sales shall be displayed only on the premises upon which the garage sale is conducted. Off-site directional signs may be permitted by the Zoning Enforcement Officer if the premise upon which the garage sale is conducted is not on a major thoroughfare. Signs may be displayed no more than 2 days before the sale and must be removed at the close of the garage sale activities. Any sign not removed by 7:00 am, Mondays following a garage sale event will be removed by the Zoning Enforcement Officer, and penalties will be assessed in accordance with § 117.05.

(C) A nonprofit organization or association of persons may conduct a garage sale at the residence of 1 or more of its members pursuant to all of the requirements of this chapter. One garage sale may be held per year without the sale being deemed 1 chargeable to the premises in question for the purposes of applying the 3 sales per year limitation set forth in division (A) above.

(D) No garage sale shall be held so as to include more than 1 residence or parcel as the site of the sale unless a permit is first obtained from the Zoning Enforcement Officer or his or her authorized representative. In granting a permit for a garage sale encompassing more than 1 residence or parcel, the Zoning Enforcement Officer may impose reasonable conditions consistent with the policies of this chapter.

(Ord. 2014-07-04, passed 7-21-2014)

**§ 117.99 PENALTY.**

(A) Any violation of any provision of this chapter shall subject the violator to a civil penalty in accordance with § 10.99 General Penalty of the Code of Ordinances.

(B) A citation for the civil penalty shall be issued by the Police Department, Town Building Inspector or Zoning Enforcement Officer.

(Ord. 2013-01-01, passed 1-21-2013; Am. Ord. 2014-07-04, passed 7-21-2014)

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**CHAPTER 118: PANHANDLING/BEGGING**

Section

118.01	Definitions
118.02	Prohibited acts
118.03	Application for permit
118.04	Exemptions
118.99	Penalty

**§ 118.01 DEFINITIONS.**

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

**AGGRESSIVE MANNER.** Includes the following conduct:

- (1) Intentionally or recklessly making any physical contact with or touching the other person in the course of the solicitation without the person's consent;
- (2) Following the person being solicited, if that conduct is intended to or is likely to cause a person to fear bodily contact or imminent bodily harm or the commission of a criminal act upon or contact with property in the person's possession; or is intended to or is likely to intimidate the person being solicited into responding affirmatively to the solicitation;
- (3) Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person asking the solicitation;
- (4) Intentionally or recklessly using obscene or abusive language or gestures; or using words or gestures intended to or likely to intimidate the person into responding affirmatively to the solicitation;
- (5) Approaching the person being solicited in a manner that is intended to or is likely to cause a person to fear bodily contact or imminent bodily harm or the commission of a criminal act upon or contact with property in the person's possession; or is intended to or is likely to intimidate the person being solicited into responding affirmatively to the solicitation; or
- (6) Continuing to solicit from a person after such person has given a negative response to such solicitation.

**AUTOMATED TELLER MACHINE.** Any device or machine, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments, and includes an automated banking device as defined by G.S. § 14-113.8(1a).

**AUTOMATED TELLER MACHINE FACILITY.** The area comprised of 1 or more automatic teller machines, and any adjacent space which is made available to customers of such machines during and after regular business hours.

**BEG, SOLICIT, or ASK.** To request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. The begging, solicitation, or asking may be, without limitation, by the spoken, written or printed word, or by other means of communication.

**FALSE OR MISLEADING SOLICITATION.** False or misleading representations include, but are not limited to, the following:

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- (1) Stating that a donation is needed to meet a specific need, when the solicitor already has sufficient funds to meet that need and does not disclose that fact;
- (2) Stating that the donation is needed to meet a need which does not exist;
- (3) Stating the solicitor is from out of town and stranded when that is not true;
- (4) Wearing a military uniform or other indication of military service, when the solicitor is neither a present nor former member of the service indicated;
- (5) Wearing or displaying an indication of physical or mental disability, when the solicitor does not suffer the disability indicated;
- (6) Use of any makeup or device to simulate any deformity; or
- (7) Stating that the solicitor is homeless, when he or she is not.

**INTIMIDATE.** Any conduct which would cause a person to fear bodily contact or imminent bodily harm or the commission of a criminal act upon or contact with property in the person's possession, and which may cause such person to do something he or she would not have otherwise done.

(Ord. 2013-04-02, passed 4-29-2013)

**§ 118.02 PROHIBITED ACTS.**

It shall be unlawful for any person to beg, solicit, or ask for money or other things of value, to exhibit oneself for the purpose of begging, soliciting, or asking for money or other things of value, or to solicit or otherwise offer the sale of goods or services:

(A) Without written permission from the Chief of Police or his or her designee. Requests may be submitted to the Chief of Police's office between the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday;

- (B) In an aggressive or intimidating manner;
- (C) In a manner that impedes pedestrians;
- (D) Within 20 feet of any crosswalk;
- (E) In or on cemetery grounds;
- (F) Within any areas adjacent to or near any public, private, or parochial schools and/or community college, college or university property;
- (G) In any public park or water access point;
- (H) Approaching within 3 feet of a person being solicited unless that person has indicated that he or she wishes to make a donation;
- (I) Within 50 feet of any entrance or exit of any bank or financial institution, or within 50 feet of any automated teller machine without the consent of the owner or other person legally in possession of such facilities; provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility;
- (J) While the person being solicited is standing in line waiting to be admitted to a commercial establishment;
- (K) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property;
- (L) From any operator or passenger of a motor vehicle that is on a public street;

(M) Within 20 feet of the visible barricade of any outdoor café whether such café is on the public sidewalk or on private property;

(N) While under the influence of alcohol or after having illegally used any controlled substance as defined in the North Carolina Controlled Substances Act;

(O) In a group of 2 or more persons;

(P) By knowingly making any false or misleading representation in the course of soliciting or begging;

(Q) At any location between the hours of 9:00 p.m. to 8:00 a.m.;

(R) In any parking, deck, garage or surface parking lot and not within 20 feet of the entrance and exits of these areas and not within 20 feet of any parking meter or parking kiosk; or

(S) On a public transportation vehicle.

(Ord. 2013-04-02, passed 4-29-2013)

### **§ 118.03 APPLICATION FOR PERMIT.**

(A) Application for the permit shall be in writing on a form furnished by the Chief of Police and shall be submitted to the Police Department at least 72 hours before the first day sought for begging. The application shall include the full legal name of the applicant, the applicant's address, telephone numbers, and e-mail addresses, and any other information needed to establish the applicant's identity. The applicant shall also provide picture identification at the time the application is submitted or, if picture identification is impractical, the applicant shall provide other documentation that definitively establishes identity. The Chief of Police shall grant the permit unless:

(1) The application contains a false or fraudulent statement;

(2) The applicant has been convicted of violating begging or panhandling ordinances within the 12 months prior to the application date; or

(3) The applicant has been convicted within the preceding 10 years of a felony or misdemeanor that, in the opinion of the Chief of Police, indicates an undesirable person or dangerous threat to the community.

(B) The Chief shall grant or deny the permit within 72 hours after a completed application is submitted. An applicant may appeal a denial of a permit to the Chief of Police, or his designee, if the appeal is taken within 10 days after mailing the denial to the applicant's last known address. Applicants maintain an ongoing responsibility to advise the Police Chief, in writing, within one week of any changes to their status that may affect their eligibility for the permit.

(C) A permit shall be valid for one year from the date of issuance, unless the permit holder is found to be in violation of the begging and panhandling ordinances. If the circumstances reasonably indicate a violation of the begging and panhandling ordinance, the holder's permit shall forthwith be revoked and the permit holder shall not be eligible for another permit for a period of one year from the date of revocation. Any revocation of a permit pursuant to this section may be appealed to the Chief of Police, or his designee, if the appeal is taken within 10 days of notice of the revocation.

(D) Issuance of a permit under this section does not authorize begging in locations where it is otherwise prohibited by law.

(Ord. 2013-04-02, passed 4-29-2013)

**§ 118.04 EXEMPTIONS.**

The following persons or firms are exempt from the provisions of this chapter:

- (A) Any person, business or organization holding a valid license or permit issued by the Chief of Police or his or her designee;
  - (B) Any person requesting donations for any church, religious, charitable organization, school, school boosters club, or an organization tax exempt under the provision of Section 501(c)(3) of the U.S. Internal Revenue Code, which person has permission to do so from an organization designated in this division; or
  - (C) Any person, business or organization taking part in any festival or other activity under a permit or other approval granted by the Chief of Police or his or her designee.
- (Ord. 2013-04-02, passed 4-29-2013)

**§ 118.99 PENALTY.**

- (A) Any violation of any provision of this chapter shall subject the violator to a civil penalty in accordance with § 10.99 General Penalty of the Code of Ordinances.
  - (B) A citation for the civil penalty shall be issued by the Police Department, Town Building Inspector or Zoning Enforcement Officer.
- (Ord. 2013-04-02, passed 4-29-2013)

## **CHAPTER 119: GENERAL MOTOR VEHICLE SIDEWALK-STREET TAX**

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Section

- 119.01 Definitions
- 119.02 General motor vehicle tax imposed; scope
- 119.03 Administration; enforcement

**§ 119.01 DEFINITIONS.**

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

**MOTOR VEHICLE.** Each and every vehicle designed to run upon the highways, which is self-propelled or designed to be self-propelled, excluding:

- (1) Vehicles exempted from registration by G.S. § 20-51;
- (2) Non-motorized vehicles pulled by self-propelled vehicles such as trailers, campers, mobile homes, trailers and tractor trailers; and
- (3) Vehicles listed in the inventory of car dealers.

**RESIDENT MOTOR VEHICLES.** Any motor vehicle which would, for the purposes of taxability under the provisions of the North Carolina Machinery Act, have its sites within the Town of Cape Carteret.

(Ord. 2015-04-03, passed 4-11-2015)

**§ 119.02 GENERAL MOTOR VEHICLE TAX IMPOSED; SCOPE.**

Each motor vehicle which is sited within the Town of Cape Carteret on January 1, the required registration renewal date, or its first registration date, beginning with a tag renewal date of July 1, 2015, shall be subject to an annual general motor vehicle tax of \$5. The tax shall continue until rescinded in writing by the Town Board of Commissioners of Cape Carteret. (Ord. 2015-04-03, passed 4-11-2015)

**§ 119.03 ADMINISTRATION; ENFORCEMENT.**

The Town of Cape Carteret may delegate to the Carteret County Tax Supervisor and to the North Carolina Department of Motor Vehicle the authority to issue all or part of the tax bills for the tax imposed herein, and may delegate to the Carteret County Tax Collector the authority to collect all or part of the tax imposed herein, and if so appointed, the Tax Supervisor, the Tax Collector and the Carteret County Board of Equalization and Review shall each respectively have the powers of listing, assessing, discovery, collection, levy, attachment, garnishment, release, and rebate any taxes authorized under the Machinery Act on behalf of the Town of Cape Carteret. (Ord. 2015-04-03, passed 4-11-2015)

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**CHAPTER 120: BEER AND WINE LICENSE**

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Section

- 120.01 License required
- 120.02 Application procedure; issuance
- 120.03 Types of license
- 120.04 Retail tax
- 120.05 Duration

**§ 120.01 LICENSE REQUIRED.**

Every person desiring to sell at retail or wholesale within the town any of the beverages defined and enumerated in G.S. § 18B-101, as amended, shall first obtain a license from the Finance Officer. No such license shall be issued by the Finance Officer until the applicant has obtained the appropriate permit from the State Board of Alcoholic Control as provided by G.S. Chapter 18B. (Ord. 2015-09-07, passed 9-21-2015)

**§ 120.02 APPLICATION PROCEDURE; ISSUANCE.**

(A) Application for a license shall be made upon forms provided by the Finance Officer. The application shall contain the information required under G.S. § 105-113.70, and shall require the applicant to state whether he has, during the preceding license year, committed any act or permitted any condition for which his license was, or might have been, revoked or suspended and verified by the affidavit of the applicant before a notary public.

(B) If statements and information provided in the application by the applicant appears to possess all requisite qualification under law, including a statement that he has not during the preceding license year, committed any act or permitted any condition for which his license was, or could have been revoked or suspended, thereby making issuance of the license mandatory pursuant to G.S. § 105-113.70, the Finance Officer shall issue the applicant a license.  
(Ord. 2015-09-07, passed 9-21-2015)

**§ 120.03 TYPES OF LICENSE.**

Licenses issued by the town under the authority of G.S. 105-113.77, as amended, shall be restricted to on-premises and off-premises. An off-premises license authorizes the licensee to sell at retail state permitted alcoholic beverages from consumption on the premises designated in the license and to sell at retail state permitted alcoholic beverages in the manufacturer's original container for consumption off the premises designated on the license.  
(Ord. 2015-09-07, passed 9-21-2015)

**§ 120.04 RETAIL TAX.**

(A) Every person engaged in the business of selling malt beverages, as defined in G.S. § 18B-101(9), as amended, shall pay an annual license tax as follows:

- (1) For "on-premises" malt beverages as listed on the application.
- (2) For "off-premises" malt beverages as listed on the application.

(B) Every person engaged in the business of selling fortified wine, as defined by G.S. § 18B-101(7), as amended, and or selling unfortified wine, as defined by G.S.18B-101 (15), as amended, shall pay an annual license tax as follows:

- (1) For "on-premises" unfortified wine, "on-premises" fortified wine, or both as listed on the application.
- (2) For "off-premises" unfortified wine, "off-premises" fortified wine, or both as listed on the application.

(C) The tax levied in this section is the tax for the first license issued to a person. The tax for each additional license of the same type issued to that person for the same years is 110% of the base license tax, such increase to apply progressively for each additional license. There shall be no proration of license taxes.  
(Ord. 2015-09-07, passed 9-21-2015)

**§ 120.05 DURATION.**

Every license issued under this chapter shall expire on the thirtieth day of April of each year.  
(Ord. 2015-09-07, passed 9-21-2015)

## **TITLE XIII: GENERAL OFFENSES**

Chapter

### **130. GENERAL OFFENSES**

## **CHAPTER 130: GENERAL OFFENSES**

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Section

- 130.01 Drinking in public places
- 130.02 Discharge of firearms and other weapons
- 130.03 Posting bills without permit
- 130.04 No diving from town pier

### **§ 130.01 DRINKING IN PUBLIC PLACES.**

No person shall consume or serve malt beverages or unfortified wine, as defined by state law, in the public streets, boulevards, alleys, parks, sidewalks or public buildings within the town, or at any other place owned or occupied by the town.

(1997 Code, § 20-1) Penalty, see § 10.99

### **§ 130.02 DISCHARGE OF FIREARMS AND OTHER WEAPONS.**

(A) It shall be unlawful for any person to fire or discharge any rifle, gun, pistol, pellet gun, air gun, air pistol, or air rifle within the town, on or off his or her premises, in sport or amusement, except when used to defend person or property.

(B) Any person who shall knowingly and willfully permit his or her minor child under 18 years of age to discharge, fire, shoot, or operate, within the corporate limits of the town any air rifle, BB gun or pellet gun shall be guilty of a misdemeanor.

(1997 Code, § 20-2) Penalty, see § 10.99

### **§ 130.03 POSTING BILLS WITHOUT PERMIT.**

No person shall stick, paint, brand, stamp, write or put upon any house, fence, wall, pavement, post or upon any property owned by any person or owned by the town any printed, written, painted or other advertisement, bill, notice, sign or poster without first having obtained

the written permission of the owner of the property and having received a permit from the Town Clerk.

(1997 Code, § 20-3) Penalty, see § 10.99

**§ 130.04 NO DIVING FROM TOWN PIER.**

It shall be unlawful for any person to jump or dive from any municipal pier into the waters of Bogue Sound.

(Ord. 00-06-02, passed 6-26-2000) (Ord. 2016-08-03, passed 8-15-2016) Penalty, see § 10.99