The Lincoln County Board of County Commissioners met on March 21, 2022, at the Commissioners Room, Administration Building, 353 N. Generals Blvd, Lincolnton, the regular place of meeting at 6:30 PM.

Commissioners Present:
Carrol Mitchem, Chairman
Milton Sigmon, Vice-Chairman
Anita McCall
Cathy Davis
Bud Cesena

Others Present:
Kelly G. Atkins, County Manager
Megan Gilbert, County Attorney
Davin Madden, Assistant County Manager
Amy S. Atkins, Clerk to the Board

Chairman Mitchem called for a Moment of Silence and led in the Pledge of Allegiance.

Adoption of Agenda: Chairman Mitchem presented the agenda for the Board’s approval.

AGENDA
Lincoln County Board of Commissioners Meeting
Monday, March 21, 2022
6:30 PM

Lincoln County Administration Office
353 N. Generals Blvd
Lincolnton, NC 28092

Call to Order – Chairman Mitchem

Moment of Silence

Pledge of Allegiance

1. Adoption of the Agenda

2. Consent Agenda
   a. Approval of Minutes – March 7, 2022
   b. GPO #9
c. GPOA #2
d. GPO #8
e. GPO #7
f. BOA #7
g. Request for Service Weapon
h. Surplus Property
i. VTS Refunds
j. Refunds – Annuals over $100 – 2/14 – 2/28/22
k. Releases – More than $100 1/16 – 2/15/22
l. Waived Fees – Piedmont Council, Boy Scouts of America

3. Planning Board Recommendations– Jeremiah Combs

4. NCDOT Requests – Jeff Kanipe
   a. Abandonment of a portion of SR 1732, Ashley Lane – Lincoln County
   b. Abandonment of a portion of SR 1508, Daniel Shrum Road – Lincoln County

5. Approve Purchase and Install of a Generator to Carolina CAT in the amount of 


7. Revisions to the Chapter 32 of the Lincoln Co. Ordinances dealing with Emergency 
   Management – Megan Gilbert, Ron Rombs, Mark Howell

8. Sole Source Approval for the Purchase of one Charlie Cart Project Mobile Kitchen 
   Including tools and curriculum in the amount of $12,000.00 – Jennifer Sackett

9. Public Comments

10. County Manager’s Report

11. County Commissioners’ Report

12. County Attorney’s Report

13. Vacancies/Appointments

14. Other Business
   Information only – no action needed
   - Register of Deeds Report
- Property Tax Collection Report

Adjourn

*** To watch the livestream feed of the meeting, please see Council (viebit.com). Please note this link will only be active at during the meeting time ***

UPON MOTION by Commissioner Davis, the Board voted unanimously to adopt the agenda as presented.

**Consent Agenda**: UPON MOTION by Commissioner Sigmon, the Board voted unanimously to approve the consent agenda as presented.

Consent Agenda
- Approval of Minutes – March 7, 2022
- GPO #9
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- Waived Fees – Piedmont Council, Boy Scouts of America

**Planning Board Recommendations**: Jeremiah Combs presented the following:

**CZ #2022-1 Shannon C. Bingham, applicant** (Parcel ID# 57055) A request to rezone a 13.1-acre tract from R-R (Rural Residential) to CZ B-G (Conditional Zoning General Business) to permit a self-storage facility. The property is located about 400 feet west of the intersection of N.C. 18 and N.C. 10 in Northbrook Township. The Planning Board voted 8-0 to recommend approval.

UPON MOTION by Commissioner Sigmon, the Board voted unanimously to adopt the Statement of Consistency and Reasonableness as recommended by the Planning Board.

UPON MOTION by Commissioner Sigmon, the Board voted unanimously to approve the rezoning as recommended by the Planning Board for CZ #2022-1 – Shannon C. Bingham, applicant.

**CZ #2022-2 Stronach Properties, Inc., applicant** (Parcel ID# 11999 and 74248) A request to rezone a 2.1-acre tract from R-R (Rural Residential) to CZ B-G (Conditional Zoning General
Business) to permit a 10,500-square foot retail store. The property is located on the north side of Smokey Dan Kennel Road at the intersection with N.C. 10 in Northbrook Township. The Planning Board voted 8-0 to recommend disapproval.

Commissioner Sigmon pointed out that this request is for 2 parcels and part of one parcel is in Catawba County, however all taxation is paid to Lincoln County.

Commissioner McCall said she spoke to NCDOT, who have given their blessing to this request. She said the Board does not have the authority to turn this down based on traffic. She said the market makes the choice of what goes there, not the Commissioners.

Commissioner Davis said that the Board turned down a similar request in East Lincoln recently because of the traffic and the fact that there were other businesses of the same type in the area.

Jeremiah Combs said a traffic impact study is not required for this request, only a driveway permit will be issued from NCDOT, but to his knowledge, it has not been issued yet.

Commissioner Sigmon said there was a right in and right out off Highway 10. He said a lot of the information presented concerning traffic was speculative.

Megan Gilbert, County Attorney, introduced a letter from Stronach’s Attorney. The intent of the letter was to explain and counter discussions by the Planning Board. No rebuttal was allowed at the Planning Board meeting, so he rebutted what was said in this letter.

Chairman Mitchem said he cannot make decisions on what is enough, concerning churches, car washes, restaurants or any other businesses.

A MOTION by Commissioner Sigmon to adopt the Statement of Consistency and Reasonableness as presented by the Planning Staff as follows:

This proposed amendment is consistent with the Lincoln County Comprehensive Land Use Plan and other adopted plans in that:

This property is part of an area designated by the Land Use Plan as Rural Living, which designates small nodes of commercial activity such as gas stations, convenience stores or restaurants at rural crossroads, serving some daily needs of the surrounding rural population. The proposed retail store will be located within an area that is already established as a small commercial node.

This proposed amendment is reasonable in that:

This property is located on a rural highway within an area where commercial uses already exist. Established businesses in this area include a small retail store, a grocery store, and a pharmacy.

VOTE:  3 – 2    FOR:    Sigmon, Mitchem, McCall
AGAINST:   Davis, Cesena
A MOTION by Commissioner Sigmon to approve the rezoning as recommended by the Planning staff for CZ #2022-2 Stronach Properties, Inc., applicant.

VOTE:  3 – 2    FOR:    Sigmon, Mitchem, McCall
                  AGAINST:   Davis, Cesena

ZMA #687 Scott Holliday, applicant (Parcel ID# 71285) A request to rezone a 2.36-acre tract from R-SF (Residential Single-Family) to R-S (Suburban Residential). The property is located on the east side of Salem Church Road about 1000 feet south of the intersection with Hill Road in Ironton Township. The Planning Board voted 8-0 to recommend approval.

The rezoning is only for the small portion, the rest will remain R-SF.

A MOTION by Commissioner Cesena to disapprove the request.
Megan Gilbert said there needs to be a Statement of Consistency and Reasonableness in the negative to go with the motion to deny.

Commissioner Cesena withdrew his motion.

A MOTION by Commissioner McCall to approve the Statement of Consistency and Reasonableness as recommended by the Planning Board.

Commissioner Cesena pointed out that the information provided tonight stated that it was a 2.36-acre tract.

Commissioner McCall rescinded her motion.

Chairman Mitchem asked Planning staff to correct the information and bring back to the next meeting.

UPON MOTION by Commissioner Cesena, the Board voted unanimously to table a decision until the next meeting.

ZMA #688 Lincoln County Planning and Inspections Department, applicant (Parcel ID# 32044 and 79143) A request to rezone a 11.1-acre tract from PD-R (Planned Development-Residential) to R-SF (Residential Single-Family). The property is located on the north side of Graham Road at Captains Way in Catawba Springs Township. The Planning Board voted 8-0 to recommend approval.

UPON MOTION by Commissioner Sigmon, the Board voted unanimously to adopt the Statement of Consistency and Reasonableness as recommended by the Planning Board.

UPON MOTION by Commissioner Sigmon, the Board voted unanimously to approve the rezoning as recommended by the Planning Board for ZMA #688 – Lincoln County Planning and Inspections Department, applicant.
UDO Proposed Amendment #2022-1 Lincoln County Planning and Inspections Department, applicant A proposal to amend Section 9.8.7 to apply Level of Service standards where new public streets intersect an existing street and to amend Section 9.8.8 to eliminate the Application Modification Method of participating in the funding of a future intersection improvement to minimize the traffic-related effects identified in a traffic impact analysis.

The Planning Board voted 8-0 to recommend approval.

UPON MOTION by Commissioner Cesena, the Board voted unanimously to approve the Statement of Consistency and Reasonableness as recommended by the Planning Board.

UPON MOTION by Commissioner Cesena, the Board voted unanimously to approve UDO Proposed Amendments #2021-1 Lincoln County Planning and Inspections Department, applicant.

WSSUP #29 Stronach Properties, Inc., applicant (Parcel ID# 11999 and 74248) A request for a special use permit to exceed 12% impervious surface area in the Indian Creek WS-II Protected Area watershed district as a special nonresidential intensity allocation under the 10/70 option. The applicant is proposing to develop a 2.1-acre site for a retail store, with 42% impervious surface area. The property is located on the north side of Smokey Dan Kennel Road at the intersection with N.C. 10 in Northbrook Township. Following a public hearing before Board of Commissioners on 3/7/22, a final decision was postponed until a final decision is made on the rezoning request for CZ# 2022-2.

The Planning Board does not make recommendations on SUP cases.

A MOTION by Commissioner Sigmon to approve the Findings of Fact for WSSUP #29 Stronach Properties, Inc., as submitted by the applicant.

VOTE: 3 – 2   FOR:  Sigmon, Mitchem, McCall
AGAINST:  Davis, Cesena

A MOTION by Commissioner Sigmon to approve WSSUP #29 – Stronach Properties, Inc., applicant based on the Findings of Fact.

VOTE: 3 – 2   FOR:  Sigmon, Mitchem, McCall
AGAINST:  Davis, Cesena

NCDOT Requests – Jeff Kanipe presented the following:
NCDOT requests to abandon a portion of SR 1508 Daniel Shrum Rd. and a portion of SR 1732 Ashley Lane from the State Maintained System in order to correct the mapping system and accurately represent the true length and location of the roadway.

UPON MOTION by Commissioner McCall, the Board voted unanimously to approve the Resolution Providing Support and Approval of Abandonment by the N.C. Department of Transportation for a Portion of Ashley Lane (SR 1732).

RESOLUTION PROVIDING SUPPORT AND APPROVAL OF ABANDONMENT BY THE N.C. DEPARTMENT OF TRANSPORTATION FOR A PORTION OF ASHLEY LANE (SR 1732)

WHEREAS, the North Carolina Department of Transportation (NCDOT) has discovered that there is an error in their mapping system in regards to a 0.03-mile portion of Ashley Lane that extends into property that is further than the paved road; and

WHEREAS, the North Carolina Department of Transportation (NCDOT) has submitted to the Lincoln County Board of Commissioners a request for review and recommendation for the abandonment and removal of 0.03 miles of Ashley Lane (SR 1732) located in Lincoln County from their mapping system; and

WHEREAS, Lincoln County staff has reviewed the request and has determined that no property owners would be adversely impacted by this removal.

NOW THEREFORE, be it resolved by the Lincoln County Board of Commissioners has reviewed this request and provides support and approval to the North Carolina Board of Transportation for the abandonment and removal of a 0.03-mile portion of Ashley Lane.

This the 21st day of March, 2022.

__________________________________________
Carrol Mitchem, Chairman
Lincoln County Board of Commissioners

ATTEST:

_________________________________
Amy S. Atkins
Clerk to the Board

UPON MOTION by Commissioner McCall, the Board voted unanimously to approve the Resolution Providing Support and Approval of Abandonment by the N.C. Department of Transportation for a Portion of Daniel Shrum Road (SR 1508).
RESOLUTION PROVIDING SUPPORT AND APPROVAL OF ABANDONMENT BY THE N.C. DEPARTMENT OF TRANSPORTATION FOR A PORTION OF DANIEL SHRUM ROAD (SR 1508)

WHEREAS, the North Carolina Department of Transportation (NCDOT) has discovered that there is an error in their mapping system in regards to a 0.04-mile portion of Daniel Shrum Road that extends into property that is further than the paved road; and

WHEREAS, the North Carolina Department of Transportation (NCDOT) has submitted to the Lincoln County Board of Commissioners a request for review and recommendation for the abandonment and removal of 0.04 miles of Daniel Shrum Road (SR 1508) located in Lincoln County from their mapping system; and

WHEREAS, Lincoln County staff has reviewed the request and has determined that no property owners would be adversely impacted by this removal.

NOW THEREFORE, be it resolved by the Lincoln County Board of Commissioners has reviewed this request and provides support and approval to the North Carolina Board of Transportation for the abandonment and removal of a 0.04-mile portion of Daniel Shrum Road.

This the 21st day of March, 2022.

________________________________________
Carrol Mitchem, Chairman
Lincoln County Board of Commissioners

ATTEST:

_________________________________
Amy S. Atkins
Clerk to the Board

Approve Purchase and Install of a Generator to Carolina CAT in the amount of $112,521.20 using Sourcewell Contract 120617-CAT

John Henry requested the Board’s approval of the purchase and install of generator in the Administration Building to Carolina CAT in the amount $112,521.20 using Sourcewell Contract 120617-CAT.

Commissioner Sigmon asked about sales tax. Deanna Rios said sales tax will be paid, but the county will get the money back.
Megan Gilbert pointed out a change in number 18 on page 4, it has the jurisdiction for any disputes as Mecklenburg County

UPON MOTION by Commissioner Cesena, the Board voted unanimously to approve the purchase and install of a Generator to Carolina CAT in the amount of $112,521.20 using Sourcewell Contract 120617-CAT – John Henry

Public Hearing – Ordinance Amending the Lincoln County Code of Ordinances

Megan Gilbert presented the following:

These are ordinance amendments that are required for the de-criminalization of some Lincoln County Ordinances and also the requirements set out under N.C.G.S. § 153A-123. There are additional amendments for statutes that have since been re-codified within the statutes or that have been abolished.

N.C.G.S. § 153A-123 was amended to require that each ordinance state specifically if it will be enforced criminally. Prior to this amendment, all ordinances could be enforced criminally. Also, the zoning legislation in 160D has changed the statutory references to some portions of our ordinances that were required to be changed.

Mrs. Gilbert asked the Board to approve as presented. N.C.G.S. § 153A-45 requires that for an ordinance to be adopted at the meeting for which it is first presented it must receive the approval of all members of the Board of Commissioners. If the ordinance is only approved by a majority of those voting but not by all the members of the board, or if the ordinance is not voted on at that meeting, it shall be considered at the next regular meeting of the board for approval.

Chairman Mitchem opened the Public Hearing concerning the Ordinance Amending the Lincoln County Code of Ordinances. Being no speakers, Chairman Mitchem closed the Public Hearing.

UPON MOTION by Commissioner McCall, the Board voted unanimously to approve the Ordinance Amending the Lincoln County Code of Ordinances as presented.

AN ORDINANCE AMENDING THE LINCOLN COUNTY CODE OF ORDINANCES

WHEREAS, Part XIII of Session Law 2021-138 provides that, effective December 1, 2021, a violation of a county ordinance may be enforced as a misdemeanor as provided by N.C. General Statute § 14-4 only if the county specifies such in the ordinance; and

WHEREAS, prior to December 1, 2021, North Carolina law provided that the violation of a county ordinance could be enforced as a misdemeanor unless the Board of Commissioners specifically stated otherwise; and

WHEREAS, reformation and re-codification of North Carolina statutes occur throughout each year, and this requires ordinances to be updated to reference new and re-codified state law as needed; and

WHEREAS, certain ordinances are no longer necessary and should be repealed; and

WHEREAS, the Lincoln County Board of Commissioners intends for certain ordinance violations to continue to be punishable as a misdemeanor; and

WHEREAS, the Lincoln County Board of Commissioners intends for certain ordinances to be enforced only as a civil penalty;
WHEREAS, the Lincoln County Board of Commissioners intends to repeal certain ordinances that are no longer needed; and

WHEREAS, the amendments to the Lincoln County Code of Ordinances set forth in this ordinance are policy neutral.

NOW, THEREFORE, BE IT ORDAINED that:

Section 1. Chapter 10 of the Lincoln County Code of Ordinances is amended as follows:

§ 10.99 GENERAL PENALTY.

(A) Authority. This section is adopted pursuant to the authority granted to the Board of Commissioners in G.S. §§ 153A-121 and 153A-123.

(B) Applicability. Except as otherwise provided herein, the system of penalties provided for in this section shall apply to any violation of any county ordinance, unless otherwise prohibited by state law. The provisions of this section shall not apply to the Lincoln County Fire Prevention and Protection Ordinance (Chapter 95 of this code), the penalties under which are hereby restored to the levels at which they were set prior to the effective date of this section.

(C) Enforcement. Violations of county ordinances may be enforced by any one or more of the remedies authorized by G.S. § 153A-123, including, but not limited to, the following.

(1) Civil penalties; escalation of penalties for continuing violations. Each day that a violation of a county ordinance continues shall be treated as a separate violation subject to the accrual of the following civil penalties. Upon being cited by the applicable ordinance administrator or officer responsible for enforcement (hereinafter referred to as "enforcement officer") for a violation of a county ordinance, the violator shall be subject to a civil penalty of $50 per day for each day that the violation continues unabated for a period of seven days after the citation is issued. Violations continuing beyond seven days shall be penalized as follows: $100 per day for the eighth through the fourteenth days; $150 per day for the fifteenth through the twenty-first days; $200 per day for the twenty-second through the twenty-eighth days; and $250 per day for each day that the violation continues beyond the twenty-eighth day. All the penalties shall render the violator subject to a civil action in the nature of debt if the violator does not pay the penalty within 20 days after being notified by the enforcement officer of the accrued total of civil penalties for the violation for which he or she has been cited. The enforcement officer shall have the discretion to stay the accrual of civil penalties hereunder, pending reasonable efforts by the violator to bring into compliance the condition that is the subject of the violation.

(2) Repeat violations. After having been once cited for a violation of a county ordinance, a violator shall be subject to the following civil penalties for any additional violations within the following 12-calendar-month period. For a second violation within the period, civil penalties will begin at $100 per day for each day that the violation continues and will escalate according to the following schedule: $150 per day for the eighth through the fourteenth days; $200 per day for the fifteenth through the twenty-first days; $250 per day for the twenty-second through the twenty-eighth days; and $300 per day for each day that the violation continues beyond the twenty-eighth day. A third violation during the same period shall subject the violator to civil penalties beginning at $200 per day and escalating in a similar fashion for as long as the violation continues.

(3) Injunctive relief or equitable remedy. Notwithstanding the assessment of civil penalties as provided above, the county may pursue a civil action seeking a mandatory or prohibitory injunction and order of abatement or other equitable remedy against the violator of a county ordinance. The action may be in addition to, and not in lieu of, civil penalties.
(4) **Criminal prosecution.** A misdemeanor warrant may be issued either immediately or upon the issuance of a citation, as provided for herein, and the violator's failure to pay the penalty within the time provided. A violation of a county ordinance upon the issuance of a misdemeanor warrant shall be punishable as a Class 3 misdemeanor under G.S. § 14-4, unless otherwise stated herein, by a maximum sentence of 30 days and/or a maximum fine of $500.00.

(D) **Enforcement provisions of ordinances amended.** To the extent permitted by applicable law, the enforcement provisions of all county ordinances that are subject to enforcement as herein provided are hereby amended to be consistent herewith. The penalties provided for in this section shall be cumulative and in addition to other penalties that may apply under the provisions of other county ordinances.

(E) **Effective date.** The provisions of this section shall become effective on 7-21-2008, and shall apply to all violations of county ordinances for which citations are issued on or after that date.

(Ord. 2008-03, passed 7-21-2008; Ord. 2008-06, passed - -2008)

**Section 2.** Chapter 30 of the Lincoln County Ordinances is amended as follows:

§ 30.03 SMOKING AND THE LIKE IN COUNTY BUILDINGS AND VEHICLES PROHIBITED.

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

**SMOKING.** The inhaling, exhaling, burning, or carrying of a lighted pipe, cigar, cigarette, or other combustible tobacco product.

**TOBACCO PRODUCT.** Shall include, but not be limited to, cigars, cigarettes, pipe tobacco, chewing tobacco, or snuff.

(B) **Smoking prohibited in county buildings.** It shall be unlawful for any person to smoke in any building or facility or portion of a building or facility now or hereafter owned, leased, operated, occupied, managed, or controlled by the county.

(C) **Smoking prohibited in county vehicles.** It shall be unlawful for any person to smoke in any vehicle now or hereafter owned or leased by the county.

(D) **Consumption or use of other tobacco products prohibited in county buildings.** It shall be unlawful for any person to chew, dip, or otherwise use or consume any tobacco product in any building or facility or portion of a building or facility now or hereafter owned, leased, operated, occupied, managed, or controlled by the county.

(E) **Use or consumption of other tobacco products prohibited in county vehicles.** It shall be unlawful for any person to chew, dip, or otherwise use or consume any tobacco product in any vehicle now or hereafter owned or leased by the county.

(F) **Exemptions.** This section shall not apply to individually-assigned county vehicles occupied by not more than one person.

(G) **Conflict of laws.** If any portion of this section or the enforcement thereof is found to be preempted by state or federal law, the preemption shall not operate to invalidate the rest of this section, and the same shall remain in full force and effect.

(H) **Penalty.** Violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4.

(Ord. passed 10-4-1993; Ord. passed 11-1-1993)

§ 30.05 PROPERTY TAX LISTINGS.
(A) The County Register of Deeds shall refuse to record any deeds or other instrument of conveyance (other than a deed of trust or mortgage) until tax information as described herein shall have been presented to the Register of Deeds, along with the deed or other conveyance.

(B) Information to be obtained on behalf of the Tax Administrator by the Register of Deeds shall include the following items:
   (1) Name of the seller or grantor;
   (2) Name of the buyer or grantee; and
   (3) Current, correct, and complete mailing address of the grantee.

(C) The violation of this section by providing false or misleading information to the Register of Deeds in order to have a deed recorded shall be a Class 3 misdemeanor and punishable as by law provided in N.C.G.S. § 14-4.

(D) Notwithstanding the foregoing, however, the Register of Deeds may record a deed without the current mailing address of the grantee when he or she finds that the overriding public interest requires that the deed be immediately recorded. Provided, however, that the current mailing address of the grantee is obtained within 30 days thereafter and duly furnished to the Tax Supervisor Administrator.

(E) This section shall be effective 2-1-1988.
(Ord. passed 12-21-1987)

§ 30.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Violation of § 30.02 shall constitute a misdemeanor punishable in accordance with G.S. § 153A-123. Violation of this section shall also subject the offender to a civil penalty in the amount of $25 per occurrence to be recovered by the county. Offenders shall be issued a written citation which must be paid to the county within seven twenty (20) days.
(Ord. passed 10-4-1993)

Section 3. Chapter 50 of the Lincoln County Code of Ordinances is amended as follows:

WATER CONSERVATION

§ 50.05 STAGE 2 WATER SHORTAGE CONDITION; DECLARATION OF MANDATORY RESTRICTIONS; ILLEGAL ACTS.

(A) In determining whether to declare a Stage 2 water shortage condition, the County Manager shall consider water storage levels, available supply sources, available usable storage on hand, drawdown rates, projected supply capability, outlook for precipitation, daily water use patterns, and availability of water from other sources.

(B) Upon the declaration of a Stage 2 water shortage condition, and until the time as the declaration of water shortage has been rescinded, it shall be unlawful for any person or entity to use or permit the use of water from the county water system for any of the following purposes:
   (1) To water lawns, grass, shrubbery, trees, flowers, or vegetable gardens, except as may be specifically allowed in accordance with a watering schedule established in accordance with § 50.11; however, shrubbery, trees, flowers, or vegetable gardens may be watered by use of a hand-held hose with an automatic cut-off;
   (2) To fill newly constructed swimming or wading pools or to refill existing swimming or wading pools which have been drained;
(3) To operate or induce water into any ornamental fountain, pool, pond, or other structure making similar use of water (except as otherwise provided below);

(4) To wash automobiles, trucks, trailers, boats, airplanes, or any other type of mobile equipment, including commercial washing (unless water is recycled);

(5) To wash down outside areas such as streets, driveways, service station aprons, parking lots, patios, office buildings, or exteriors or windows of buildings, including residential and commercial construction, or to use water for other similar purposes;

(6) To use water from fire hydrants for any purpose other than firefighting or other public emergency;

(7) To serve drinking water in restaurants, cafeterias, or other food establishments, except upon request;

(8) To operate water-cooled air conditioners or other equipment that does not recycle cooling water, except when health and safety are adversely affected; and/or

(9) To use water for any unnecessary purpose or to intentionally waste water.

(C) The goal for a Stage 2 water shortage condition is to reduce water usage by 5% to 10% from a normal level.

(D) Incidental uses of water (including birdbaths and garden ponds or pools) that serve pets, livestock, or other animals are hereby exempted from these restrictions.

(E) Violations of this Section:

(1) Any violation of a provision of this Section shall constitute a Class 3 misdemeanor, punishable upon conviction as provided in G.S. § 14-4 by a maximum fine of $500.00.

(2) In addition to the other remedies cited in this section for the enforcement of its provisions, and pursuant to G.S. § 153A-123, the regulations in this subchapter may be enforced through the issuance of civil penalties by the Public Works Department. First offense penalties may be assessed at the rate of $50 per offense. If the offender continues to violate the provisions of this subchapter, the second offense may be assessed in the amount of $250 and the third or greater offense may be assessed in the amount of $500. If the offender fails to pay the civil penalties within five days after having been cited, the county may either add the amount of the penalties to the offender's next water bill or recover the penalties in a civil action in the nature of debt. Offenders who fail to pay any such penalties added onto their water bills will be subject to disconnection of service as provided in § 50.10.

(3) In addition to, or in lieu of, the foregoing, pursuant to G.S. § 153A-123, the county may seek a mandatory or prohibitory injunction and/or an order of abatement commanding the offender to correct the unlawful condition or cease the unlawful activity.

(Ord. passed 6-4-2007) Penalty, see § 50.99

§ 50.06 STAGE 3 WATER SHORTAGE CONDITION; DECLARATION OF MANDATORY RESTRICTIONS; ILLEGAL ACTS.

(A) The County Manager may declare a Stage 3 water shortage condition after considering the factors listed in § 50.05 and determining that the shortage is significantly more urgent than the Stage 2 level.

(B) Upon the declaration of a Stage 3 water shortage condition, and until the time as the declaration of water shortage has been rescinded, it shall be unlawful for any person or entity to use or permit the use of water from the county water system for any of the following purposes:

(1) To induce water into any pool;

(2) To use water outside a structure for any use other than an emergency involving a fire; however, shrubbery, trees, flowers, or vegetable gardens may be watered by use of a hand-held hose with an automatic cut-off; and/or
To operate an evaporative air conditioner which recycles water, except during operating hours of business.

The goal for a Stage 3 water shortage condition is to reduce water usage by 10% to 20% from a normal level.

In addition, during a Stage 3 water shortage condition, the following guidelines shall apply: fire protection shall be maintained wherever possible by drafting of ponds, rivers, and the like, and all eating establishments shall be encouraged to use disposable plates and utensils.

Violations of this Section:

1. Any violation of a provision of this Section shall constitute a Class 3 misdemeanor, punishable upon conviction as provided in G.S. § 14-4 by a maximum fine of $500.00.

2. In addition to the other remedies cited in this section for the enforcement of its provisions, and pursuant to G.S. § 153A-123, the regulations in this subchapter may be enforced through the issuance of civil penalties by the Public Works Department. First offense penalties may be assessed at the rate of $50 per offense. If the offender continues to violate the provisions of this subchapter, the second offense may be assessed in the amount of $250 and the third or greater offense may be assessed in the amount of $500. If the offender fails to pay the civil penalties within five days after having been cited, the county may either add the amount of the penalties to the offender's next water bill or recover the penalties in a civil action in the nature of debt. Offenders who fail to pay any such penalties added onto their water bills will be subject to disconnection of service as provided in § 50.10.

3. In addition to, or in lieu of, the foregoing, pursuant to G.S. § 153A-123, the county may seek a mandatory or prohibitory injunction and/or an order of abatement commanding the offender to correct the unlawful condition or cease the unlawful activity.

(Ord. passed 6-4-2007) Penalty, see § 50.99

§ 50.07 STAGE 4 WATER SHORTAGE EMERGENCY; DECLARATION OF MANDATORY RESTRICTIONS; ILLEGAL ACTS.

A. The County Manager may declare a Stage 4 water shortage emergency condition after considering the factors listed in § 50.06 and determining that the shortage is significantly more urgent than the Stage 3 level.

B. Upon the declaration of a Stage 4 water shortage condition, and until the time as the declaration of water shortage has been rescinded, it shall be unlawful for any person or entity to use or permit the use of water from the county water system for any outside use. The county shall implement emergency water use restrictions, including enforcement of these restrictions and assessment of penalties. The county shall also meet with large commercial and industrial water customers to discuss strategies for reduction of water uses.

C. The goal for a Stage 4 water shortage condition is to reduce water usage by 20% to 30% from a normal level.

E. Violations of this Section:

1. Any violation of a provision of this Section shall constitute a Class 3 misdemeanor, punishable upon conviction as provided in G.S. § 14-4 by a maximum fine of $500.00.

2. In addition to the other remedies cited in this section for the enforcement of its provisions, and pursuant to G.S. § 153A-123, the regulations in this subchapter may be enforced through the issuance of civil penalties by the Public Works Department. First offense penalties may be assessed at the rate of $50 per offense. If the offender continues to violate the provisions of this subchapter, the second offense may be assessed in the amount of $250 and the third or greater offense may be assessed in the amount of $500. If the offender fails to pay the civil penalties within five days after having been cited, the county may either add the amount of the penalties to the offender's next water bill or recover the penalties in a civil action in the nature of debt. Offenders who fail to pay any such penalties added onto their water bills will be subject to disconnection of service as provided in § 50.10.
(3) In addition to, or in lieu of, the foregoing, pursuant to G.S. § 153A-123, the county may seek a mandatory or prohibitory injunction and/or an order of abatement commanding the offender to correct the unlawful condition or cease the unlawful activity.

(Ord. passed 6-4-2007) Penalty, see § 50.99

CROSS-CONNECTION CONTROL

§ 50.27 RESPONSIBILITIES.

(A) Health agency.

(1) The North Carolina Department of Environment, Health, and Natural Resources (Division of Health Services) has the responsibility for promulgating and enforcing laws, rules, regulations, and policies to be followed in carrying out an effective cross-connection control program.

(2) The Division of Health Services also has the primary responsibility of ensuring that the water purveyor operates the public potable water system free of actual or potential sanitary hazards, including unprotected cross-connections. They have the further responsibility of ensuring that the water purveyor provides an approved water supply at the service connection to the consumer’s water system.

(B) Water purveyor.

(1) Except as otherwise provided herein, the water purveyor’s responsibility to ensure a safe water supply begins at the source and includes all of the public water distribution system, including the service connection, and all ends at the point of delivery to the consumer’s water system(s). In addition, the water purveyor shall exercise reasonable vigilance to ensure that the consumer has taken the proper steps to protect the public potable water system. To ensure that the proper precautions are taken, the county is required to determine the degree of hazard or potential hazard to the public potable water system; to determine the degree of protection required; and to ensure proper containment protection through an on-going inspection program.

(2) When it is determined that a backflow prevention assembly is required for the protection of the public system, the county shall require the consumer, at the consumer’s expense, to install an approved backflow prevention assembly at each service connection, to test immediately upon installation and thereafter at a frequency as determined by the county, to properly repair and maintain the assembly or assemblies and to keep adequate records of each test and subsequent maintenance and repair, including materials and/or replacement parts.

(C) Consumer. The consumer has the primary responsibility of preventing pollutants and contaminants from entering its potable water system(s) or the public potable water system. The consumer’s responsibility starts at the point of delivery from the public potable water system and includes all of its water system(s). The consumers, at their own expense, shall install, operate, test, and maintain approved backflow prevention assemblies as directed by the county. The consumer shall maintain accurate records of tests and repairs made to backflow assemblies and shall maintain the records for a minimum period of three years. The records shall be on forms approved by the county and shall include the list of materials or replacement parts used. Following any repair, overhaul, repiping, or relocation of an assembly, the consumer shall have it tested to ensure that it is in good operating condition and will prevent backflow. Tests, maintenance, and repairs of backflow prevention assemblies shall be made by a certified backflow prevention assembly tester.

(D) Certified backflow prevention assembly tester. When employed by the consumer to test, repair, overhaul, or maintain backflow prevention assemblies, a backflow prevention assembly tester will have the following responsibilities.

(1) The tester will be responsible for making competent inspections, for repairing or overhauling backflow prevention assemblies and making reports of the repair to the consumer and responsible authorities on forms approved by the county. The tester shall include the list of materials or replacement parts used. The tester shall be equipped with and be competent to use all the necessary
tools, gauges, manometers, and prevention assemblies. It will be the tester's responsibility to ensure that original manufactured parts are used in the repair of or replacement of parts in a backflow prevention assembly. It will be the tester's further responsibility not to change the design, material, or operational characteristics of an assembly during repair or maintenance without prior approval of the county. A certified tester shall perform the work and be responsible for the competency and accuracy of all test and reports. A certified tester shall provide a copy of all test and repair reports to the consumer and to Public Works Department within ten business days of any completed test or repair work. A certified tester shall maintain the records for a minimum period of three years.

(2) All certified backflow prevention assembly testers must obtain and employ backflow prevention assembly test equipment, which has been evaluated and/or approved by the county. All test equipment shall be registered with the Public Works Department. All test equipment shall be checked for accuracy annually, calibrated, if necessary and certified to the county as to the calibration, employing an accuracy/calibration method acceptable to the county.

(3) All certified backflow prevention assembly testers must become re-certified every two years through an approved backflow prevention certification program.

(E) Penalty. Violation of this subsection shall be punishable by injunctive relief, equitable remedy and civil penalties pursuant to §10.99.

(Ord. passed 4-2-2001) Penalty, see § 50.99

§ 50.29 RIGHT OF ENTRY.

(A) Authorized representative(s) from the county shall have the right to enter, upon presentation of proper credentials and identification, any building, structure, or premises during normal business hours, or at any time during the event of an emergency, to perform any duty imposed by this subchapter. Those duties may include sampling and testing of water, or inspections and observations of all piping systems connected to the public water supply. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with the security guards so that upon presentation of suitable identification, the county personnel will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Refusal to allow entry for these purposes will result in discontinuance of water service.

(B) On request, the consumer shall furnish to the county any pertinent information regarding the water supply system on the property where cross-connections and backflow are deemed possible.

(C) Penalty. Violation of this subsection shall be punishable by injunctive relief, equitable remedy and civil penalties pursuant to §10.99.

(Ord. passed 4-2-2001) Penalty, see § 50.99

§ 50.30 ELIMINATION OF CROSS-CONNECTIONS; DEGREE OF HAZARD.

(A) When cross-connections are found to exist, the owner, agent, occupant, or tenant will be notified in writing to disconnect the same within the time limit established by the county. Degree of protection required and maximum time allowed for compliance will be based upon potential degree of hazard to the public water supply system. The point of service shall be immediately disconnected if the corrective action has not occurred within the maximum time limit allowed. No additional notification shall be given other than the original notification. The maximum time allowed shall begin with the issuance of the written notification of the violation.

(B) The maximum time limits are as follows:

(1) Cross-connections with private wells or other auxiliary water supplies - immediate disconnection;

(2) All facilities which pose a health hazard to the potable water system must have a contaminant assembly in the form of a reduced pressure principal backflow prevention assembly within 60 days;
(3) All industrial and commercial facilities not identified as a "health hazard" shall be considered non-health hazard facilities. All non-health hazard facilities must install, as minimum containment assembly, a double check valve assembly within 90 days;

(4) If, in the judgement of the county, an imminent health hazard exists, water service to the building or premises where a cross-connection exists will be terminated unless an air gap is immediately provided, or the cross-connection is immediately eliminated;

(5) Based upon recommendation from the county, the consumer is responsible for installing sufficient internal isolation backflow prevention assemblies;

(6) No person shall fill any bulk water tanks or tankers from the public water system except when equipped with an air gap or an approved double check valve assembly properly installed, at the consumer’s expense, and inspected by the county. Bulk water tanks or tankers shall be filled at sites in the county designated by the Director Manager of Public Services Works;

(7) No person shall fill special use tanks or tankers containing pesticides, fertilizers, other toxic chemicals, or their residues from the public water system, except when equipped with an air gap or an approved reduced pressure principal backflow prevention assembly properly installed, at the consumer’s expense, and inspected by the county. Special use tanks or tankers containing pesticides, fertilizers, other toxic chemicals, or their residues shall be filled only at sites in the county designated by the Director Manager of Public Services Works.

(C) Penalty. Violation of this subsection shall be punishable by injunctive relief, equitable remedy and civil penalties pursuant to §10.99.
(Ord. passed 4-2-2001) Penalty, see § 50.99

§ 50.31 INSTALLATION OF ASSEMBLIES.

(A) All backflow prevention assemblies shall be installed in accordance with the specifications furnished by the Public Works Department and/or the manufacturer's installation instructions and/or in the latest edition of the State Building Code, whichever is most restrictive.

(B) Ownership, testing, and maintenance of the assembly shall be the responsibility of the customer.

(C) All double check valve assemblies must be installed in drainable vaults, with 18 inches of clearance on all sides wherever below ground installation is necessary, in accordance with detailed specifications provided by the Public Works Department. Double check valve assemblies may be installed in a vertical position with prior approval from the Public Works Department, provided the flow of water is in an upward direction.

(D) Reduced pressure principal assemblies must be installed in a horizontal position only and can be installed in vault that provides a minimum of 18 inches of clearance on all sides and is provided with adequate drainage, to the atmosphere, so as not to allow submersion.

(E) The installation of a backflow prevention assembly, which is not approved, must be replaced with an approved backflow prevention assembly.

(F) The installer is responsible to make sure a backflow prevention assembly is working properly upon installation and is required to furnish the following information to the Public Works Department within 15 days after installation:

(1) Service address where assembly is located;
(2) Owner (and address, if different from service address);
(3) Description of assembly's location;
(4) Date of installation;
(5) Installer (include name, plumbing company represented, plumber's license number, and project permit number);
(6) Type of assembly and size of assembly;
(7) Manufacturer, model number, and serial number of assembly; and
(8) Test results and report.

(G) When it is not possible to interrupt water service, provisions shall be made for a "parallel installation" of backflow prevention assemblies. The county will not accept an unprotected bypass around a backflow preventer when the assembly is in need of testing, repair, or replacement.

(H) The consumer shall, upon notification, install the appropriate containment assembly not to exceed the following time frame:

1. Health hazard - 60 days; and
2. Non-health hazard - 90 days.

(I) Penalty. Violation of this subsection shall be punishable by injunctive relief, equitable remedy and civil penalties pursuant to §10.99.

(Ord. passed 4-2-2001) Penalty, see § 50.99

§ 50.32 TESTING AND REPAIR OF ASSEMBLIES.

(A) Testing of backflow prevention assemblies shall be made by a certified backflow prevention assembly tester. The tests are to be conducted upon installation and annually thereafter. A record of all testing and repairs is to be retained by the customer. Copies of the records must be provided to the Public Works Department within ten business days after the completion of any testing and/or repair work.

(B) Any time that repairs to backflow prevention assemblies are deemed necessary, whether through annual testing, required testing or routine inspection by the owner or by the county, these repairs must be completed within a specified time in accordance with the degree of hazard. If these repairs are not completed within the specified time period, water service will be terminated. In no case shall this time period exceed:

1. Health hazard facilities - 14 days; and
2. Non-health hazard facilities - 21 days.

(C) All certified backflow prevention assembly testers must obtain and employ backflow prevention assembly test equipment, which has been evaluated and/or approved by the county. All test equipment shall be checked for accuracy annually (at a minimum), calibrated, if necessary, and certified to the county as such.

(D) It shall be unlawful for any customer or certified tester to submit any record to the county, which is false or incomplete in any material respect. It shall be unlawful for any customer or certified tester to fail to submit to the county any record, which is required by this subchapter. The violations may result in the termination of service.

(E) Penalty. Violation of this subsection shall be punishable by injunctive relief, equitable remedy and civil penalties pursuant to §10.99.

(Ord. passed 4-2-2001) Penalty, see § 50.99

§ 50.34 CONNECTIONS WITH UNAPPROVED SOURCES OF SUPPLY.

(A) No person shall connect or cause to be connected any supply of water not approved by the State Department of Environment, Health, and Natural Resources to the water system supplied by the Public Works Department. Any such connection allowed by the Public Works Department must be in conformance with the backflow prevention requirements of this subchapter.

(B) In the event of contamination or pollution of a public or consumer potable water system, the consumer shall notify the Public Works Department immediately in order that appropriate measures may be taken to overcome and eliminate the contamination or pollution.

(C) Penalty. Violation of this subsection shall be punishable by injunctive relief, equitable remedy and civil penalties pursuant to §10.99.

(Ord. passed 4-2-2001) Penalty, see § 50.99
§ 50.35 FIRE PROTECTION SYSTEMS.

(A) All connections for fire protection systems connected with the public water system, two inches and smaller, shall be protected with an approved dual check valve assembly as a minimum requirement. All fire systems using toxic additives or booster pumps shall be protected by an approved reduced pressure principal assembly at the main service connection.

(B) All connections for fire protection systems connected with the public water system greater than two inches shall be protected with an approved double check detector assembly as a minimum requirement. All fire protection systems using toxic or hazardous additives or booster pumps shall be protected by an approved reduced pressure principal detector assembly at the main service connection.

(C) All existing backflow prevention assemblies two inches and larger installed on fire protection systems (that were initially approved by the Public Works Department) shall be allowed to remain on the premises, as long as they are being properly maintained, tested, and repaired as required by this subchapter. If, however, the existing assembly must be replaced, or in the event of proven water theft through an unmetered source, the consumer shall be required to install an approved assembly as required by this subchapter.

(D) Penalty. Violation of this subsection shall be punishable by injunctive relief, equitable remedy and civil penalties pursuant to §10.99.

(Ord. passed 4-2-2001) Penalty, see § 50.99

§ 50.36 VIOLATIONS.

Any violation of or noncompliance with the requirements of this subchapter may result in the termination of service, or may be punishable by injunctive relief, equitable remedy any civil penalties pursuant to §10.99.

(Ord. passed 4-2-2001) Penalty, see § 50.99

§ 50.99 PENALTY.

(A) Generally. Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

—(B) Sections 50.01 through 50.11.

— (1) Any violation of a provision of this subchapter shall constitute a Class 3 misdemeanor, punishable upon conviction as provided in G.S. § 14-4 or successor statute by a maximum fine of $500 and a maximum of 30 days imprisonment.

— (2) In addition to the other remedies cited in this subchapter for the enforcement of its provisions, and pursuant to G.S. § 153A-123, the regulations in this subchapter may be enforced through the issuance of civil penalties by the Public Works Department. First offense penalties may be assessed at the rate of $50 per offense. If the offender continues to violate the provisions of this subchapter, the second offense may be assessed in the amount of $250 and the third or greater offense may be assessed in the amount of $500. If the offender fails to pay the civil penalties within five days after having been cited, the county may either add the amount of the penalties to the offender's next water bill or recover the penalties in a civil action in the nature of debt. Offenders who fail to pay any such penalties added onto their water bills will be subject to disconnection of service as provided in § 50.10.

— (3) In addition to, or in lieu of, the foregoing, pursuant to G.S. § 153A-123, the county may seek a mandatory or prohibitory injunction and/or an order of abatement commanding the offender to correct the unlawful condition or cease the unlawful activity.

— (4) The above remedies are cumulative, and the county may pursue any or all of the same at its discretion.

(Ord. passed 6-4-2007)
Section 4. Chapter 51 of the Lincoln County Code of Ordinances is amended as follows:

GENERAL SEWER USE REQUIREMENTS

§ 51.002 DEFINITIONS AND ABBREVIATIONS.

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

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

APPROVAL AUTHORITY. The Director of the Division of Environmental Management of the North Carolina Department of Environment, Health, and Natural Resources or his or her designee.

AUTHORIZED REPRESENTATIVE OF THE INDUSTRIAL USER.

(a) If the industrial user is a corporation, AUTHORIZED REPRESENTATIVE shall mean:

1. The president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

2. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the industrial user is a partnership or sole proprietorship, an AUTHORIZED REPRESENTATIVE shall mean a general partner or the proprietor, respectively.

(c) If the industrial user is a federal, state, or local government facility, an AUTHORIZED REPRESENTATIVE shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(d) The individuals described in divisions (a) through (c) above may designate another AUTHORIZED REPRESENTATIVE if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the county.

BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 200°C, usually expressed as a concentration (e.g., mg/l).

BUILDING SEWER. A sewer conveying wastewater from the premises of a user to the POTW.

BYPASS. The intentional diversion of wastestreams from any portion of a user's treatment facility.

CATEGORICAL STANDARDS. National Categorical Pretreatment Standards or Pretreatment Standard.

DIRECTOR. The person designated by the county to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his or her duly authorized representative.

ENVIRONMENTAL PROTECTION AGENCY (EPA). The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of the agency.

GRAB SAMPLE. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.
HOLDING TANK WASTE. Any waste from holding tanks, including, but not limited to, the holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

INDIRECT DISCHARGE or DISCHARGE. The discharge or the introduction from any nondomestic source regulated under § 307(b), (c), or (d) of the Act (33 U.S.C. § 1317), into the POTW (including holding tank waste discharged into the system).

INDUSTRIAL USER or USER. Any person which is a source of indirect discharge.

INTERFERENCE. The inhibition or disruption of the POTW treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the POTW's NPDES or non-discharge permit or prevents sewage sludge use or disposal in compliance with specified applicable state and federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with § 405 of the Act (33 U.S.C. § 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (42 U.S.C. §§ 6901 et seq.), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

MEDICAL WASTE. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

NATIONAL CATEGORICAL PRETREATMENT STANDARD or CATEGORICAL STANDARD. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with § 307(b) and (c) of the Act (33 U.S.C. § 1317) which applies to a specific category of industrial users, and which appears in 40 C.F.R. Chapter 1, Subchapter N, Parts 405-471.

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM PERMIT (NPDES PERMIT). A permit issued pursuant to § 402 of the Act (33 U.S.C. § 1342), or pursuant to G.S. § 143-215.1 by the state under delegation from EPA.

NATIONAL PROHIBITIVE DISCHARGE STANDARD or PROHIBITIVE DISCHARGE STANDARD. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in this chapter and are developed under the authority of § 307(b) of the Act and 40 C.F.R. § 403.5.

NEW SOURCE.

(a) Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under § 307(c) of the Act which will be applicable to the source if the standards are thereafter promulgated in accordance with § 307(c), provided that:

1. The building, structure, facility, or installation is constructed at a site at which no other source is located;
2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
3. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a NEW SOURCE if the construction does not create a new building, structure, facility, or installation meeting the criteria of divisions (a)2. or (a)3. above but otherwise alters, replaces, or adds to existing process or production equipment.
(c) For purposes of this definition, construction of a NEW SOURCE has commenced if the owner or operator has:

1. Begun, or caused to begin, as part of a continuous on-site construction program:
   a. Any placement, assembly, or installation of facilities or equipment; or
   b. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment.

2. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

**NONCONTACT COOLING WATER.** Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

**NON-DISCHARGE PERMIT.** A disposal system permit issued by the state pursuant to G.S. § 143-215.1.

**PASS THROUGH.** A discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the POTW's NPDES or non-discharge permit, or a downstream water quality standard.

**PERSON.** Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. This definition includes all federal, state, and local government entities.

**pH.** A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

**POLLUTANT.** Any "waste" as defined in G.S. § 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

**POTW DIRECTOR.** The County Director of Utilities, Manager of Public Works.

**POTW TREATMENT PLANT.** The portion of the POTW designed to provide treatment to wastewater.

**PRETREATMENT or TREATMENT.** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing the pollution into a POTW. The reduction or alteration can be obtained by physical, chemical, or biological processes, or process changes or other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

**PRETREATMENT PROGRAM.** The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the county in compliance with 40 C.F.R. § 403.8 and approved by the approval authority as authorized by G.S. § 143-215.3 (a)(14) in accordance with 40 C.F.R. § 403.11.

**PRETREATMENT REQUIREMENTS.** Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.

**PRETREATMENT STANDARDS.** Prohibited discharge standards, categorical standards, and local limits.
PUBLICLY OWNED TREATMENT WORKS (POTW) or MUNICIPAL WASTEWATER SYSTEM. A treatment works as defined by § 212 of the Act (33 U.S.C. § 1292), which is owned in this instance by the county. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this chapter, POTW shall also include any sewers that convey wastewaters to the POTW from persons outside the county who are, by contract or agreement with the county, or in any other way, users of the county's POTW.

SEVERE PROPERTY DAMAGE. Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. SEVERE PROPERTY DAMAGE does not mean economic loss caused by delays in production.

SIGNIFICANT INDUSTRIAL USER. Any industrial user of the wastewater disposal system who:
   (a) Has an average daily process wastewater flow of 50,000 gallons or more;
   (b) Contributes more than 5% of any design or treatment capacity (i.e., allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge;
   (c) Is required to meet a national categorical pretreatment standard; or
   (d) Is found by the county, the Division of Environmental Management, or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.

SIGNIFICANT NONCOMPLIANCE or REPORTABLE NONCOMPLIANCE. A status of noncompliance defined as follows:
   (a) Violations of wastewater discharge limits:
       1. Chronic violations - 66% or more of the measurements exceed (by any magnitude) the same daily maximum limit or the same average limit in a six-month period;
       2. Technical review criteria (TRC) violations - 33% or more of the measurements are more than the TRC times the limit (maximum or average) in a six-month period. There are two groups of TRCs:
          a. For conventional pollutants, BOD, TSS, fats, oil, and grease TRC = 1.4; and
          b. For all other pollutants TRC = 1.2.
       3. Any other violation(s) of an effluent limit (average or daily maximum) that the control authority believes has caused, alone or in combination with other discharges, interference or pass-through; or endangered the health of the sewage treatment plant personnel or the public; and/or
       4. Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
   (b) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date;
   (c) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 30 days from the due date;
   (d) Failure to accurately report noncompliance; and/or
   (e) Any other violation or group of violations that the control authority considers to be significant.

SLUG LOAD. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in § 51.015.

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

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

UPSET. An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An UPSET does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities lack of preventive maintenance, or careless or improper operation.

WASTEWATER. The liquid- and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.

WASTEWATER PERMIT. As set forth in § 51.051.

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

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

- BOD. Biochemical Oxygen Demand.
- COD. Chemical Oxygen Demand.
- EPA. Environmental Protection Agency.
- gpd. Gallons per day.
- l. Liter.
- mg. Milligrams.
- mg/l. Milligrams per liter.
- G.S. North Carolina General Statutes.
- NPDES. National Pollution Discharge Elimination System.
- O&M. Operation and Maintenance.
- POTW. Publicly-Owned Treatment Works.
- SIC. Standard Industrial Classification.
- SWDA. Solid Waste Disposal Act.
- TSS. Total Suspended Solids.
- TKN. Total Kjeldahl Nitrogen.

(Ord. passed 8-22-1994)

§ 51.015 PROHIBITED DISCHARGE STANDARDS.

(A) No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply
to all users of a POTW whether or not the user is a significant industrial user or subject to any national, state, or local pretreatment standards or requirements.

(B) No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:

1. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 C.F.R. § 261.21;

2. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference;

3. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

4. Any wastewater having a pH less than five or more than nine or wastewater having any other corrosive property capable of causing damage to the POTW or equipment;

5. Any wastewater containing pollutants, including oxygen demanding pollutants, (BOD, and the like) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW;

6. Any wastewater having a temperature greater than 150°F (66°C), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);

7. Any pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

8. Any trucked or hauled pollutants, except at discharge points designated by the POTW Director in accordance with § 51.023;

9. Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair;

10. Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under § 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used;

11. Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses;

12. Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW Director in compliance with applicable state or federal regulations;

13. Storm water, surface water, ground water, ariseran well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the POTW Director;

14. Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l;

15. Any sludges, screenings, or other residues from the pretreatment of industrial wastes;

16. Any medical wastes, except as specifically authorized by the POTW Director discharge permit;

17. Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the county wastewater system;
(18) Any material that would be identified as hazardous waste according to 40 C.F.R. pt. 261 if not disposed of in a sewer except as may be specifically authorized by the POTW Director;

(19) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 2B .0200;

(20) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

(21) Recognizable portions of the human or animal anatomy;

(22) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the county wastewater system; and/or

(23) At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than 5% nor any single reading over 10% of the lower explosive limit (LEL) of the meter.

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

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

(1) Advise the user(s) of the potential impact of the contribution on the POTW in accordance with § 51.120; and

(2) Take appropriate actions in accordance with this chapter for the user to protect the POTW from interference or pass through.

(E) Any violation of this Section shall be subject to the penalties as described in § 51.999 herein.

(Ord. passed 8-22-1994) Penalty, see § 51.999

§ 51.016 NATIONAL CATEGORICAL PRETREATMENT STANDARDS.

(A) Generally. Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 C.F.R. Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

(B) Specifically.

(1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the POTW Director may impose equivalent concentration or mass limits in accordance with 40 C.F.R. § 403.6(C).

(2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the POTW Director shall impose an alternate limit using the combined wastestream formula in 40 C.F.R. § 403.6(e).

(3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 C.F.R. § 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 C.F.R. § 403.15.

(C) Any violation of this Section shall be subject to the penalties as described in § 51.999 herein.

(Ord. passed 8-22-1994) Penalty, see § 51.999

§ 51.017 LOCAL LIMITS.
(A) To implement the general and specific discharge prohibitions listed in this chapter, industrial user-specific local limits will be developed ensuring that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern for each industrial user. Where specific local limits are not contained for a given parameter or pollutant in an industrial user permit, the following limits will apply to all users:

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Limit (mg/l)</th>
</tr>
</thead>
<tbody>
<tr>
<td>BOD</td>
<td>250</td>
</tr>
<tr>
<td>TSS</td>
<td>250</td>
</tr>
<tr>
<td>TKN</td>
<td>40</td>
</tr>
<tr>
<td>arsenic</td>
<td>0.003</td>
</tr>
<tr>
<td>cadmium</td>
<td>0.003</td>
</tr>
<tr>
<td>copper</td>
<td>0.090</td>
</tr>
<tr>
<td>cyanide</td>
<td>0.035</td>
</tr>
<tr>
<td>lead</td>
<td>0.049</td>
</tr>
<tr>
<td>MBAS</td>
<td>5.00</td>
</tr>
<tr>
<td>mercury</td>
<td>0.0003</td>
</tr>
<tr>
<td>nickel</td>
<td>0.170</td>
</tr>
<tr>
<td>O/G</td>
<td>50.0</td>
</tr>
<tr>
<td>silver</td>
<td>0.005</td>
</tr>
<tr>
<td>total chromium</td>
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</tr>
<tr>
<td>zinc</td>
<td>0.340</td>
</tr>
<tr>
<td>phenol</td>
<td>0.100</td>
</tr>
</tbody>
</table>

(B) Industrial user-specific local limits for appropriate pollutants of concern shall be included in wastewater permits and are considered pretreatment standards. The POTW Director may impose mass limits in addition to, or in place of, the concentration-based limits above in accordance with categorical standards.

(C) Any violation of this Section shall be subject to the penalties as described in § 51.999 herein.

(Ord. passed 8-22-1994) Penalty, see § 51.999

§ 51.020 DILUTION.

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the county or state. Any violation of this Section shall be subject to the penalties as described in § 51.999 herein.

(Ord. passed 8-22-1994) Penalty, see § 51.999

§ 51.021 PRETREATMENT OF WASTEWATER.

(A) Pretreatment facilities. Users shall provide wastewater treatment as necessary to comply with this chapter and wastewater permits issued under § 51.051 and shall achieve compliance with all national categorical pretreatment standards, local limits, and the prohibitions set out in § 51.015 within the time limitations as specified by EPA, the state, or the POTW Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the
user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the county for review, and shall be approved by the POTW Director before construction of the facility. The review of the plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the county under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW Director prior to the user's initiation of the changes.

(B) Additional pretreatment measures.

(1) Whenever deemed necessary, the POTW Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and any other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.

(2) The POTW Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the POTW Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, and sand; except that the interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the POTW Director and shall be so located to be easily accessible for cleaning and inspection. The interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

(4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(C) Any violation of this Section shall be subject to the penalties as described in § 51.999 herein.

§ 51.023 HAULED WASTEWATER.

(A) Septic tank waste may be introduced into the POTW only at locations designated by the POTW Director, and at such times as are established by the POTW Director. The waste shall not violate this subchapter or any other requirements established by the county. The POTW Director may require septic tank waste haulers to obtain wastewater discharge permits.

(B) The POTW Director shall require haulers of industrial waste to obtain wastewater discharge permits. The POTW Director may require generators of hauled industrial waste to obtain wastewater discharge permits. The POTW Director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this chapter.

(C) Industrial waste haulers may discharge loads only at locations designated by the POTW Director. No load may be discharged without prior consent of the POTW Director. The POTW Director may collect samples of each hauled load to ensure compliance with applicable standards. The POTW Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(D) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(E) Any violation of this Section shall be subject to the penalties as described in § 51.999 herein.

(Ord. passed 8-22-1994) Penalty, see § 51.999
§ 51.024 PRIVATE SEWAGE SYSTEMS.

(A) (1) Except as otherwise provided in this section, from and after 3-18-1997, a direct connection to the public sewer system shall be made pursuant to this chapter for all new construction within the boundaries of the county where public sewer service is available, and each malfunction for which a repair permit becomes necessary to repair a private system within the area described above. No further permits shall be issued for private sewage systems in the area described above after 3-18-1997. Notwithstanding the foregoing provisions, however, repair permits may be issued and direct connections not required for malfunctions described above if the situations meet the criteria of the County Sanitarian Health Inspectors for the issuance of repair permits. Direct connections shall not be required for a publicly owned or nonprofit outdoor recreation facility, which is used less than 180 days per year.

(2) For purposes of this section, public sewer is "available" where a public sewer line:
   (a) Passes within 400 feet of the existing or proposed structure, as the case may be; and
   (b) Either touches the lot on which the existing or proposed structure is located or lies within a right-of-way adjacent to the lot where the structure is located.

(3) Upon connection to a public sewer system, any septic tank, cesspool, or similar private disposal facility, not used for back-up, shall be abandoned and filled with suitable materials.

(4) This chapter shall be subject to enforcement by mandatory or prohibitory injunctions and orders of abatement, and violations of this chapter shall subject the offender to criminal and/or civil liability as provided in G.S. Chapter 153A.

(B) Where a public sanitary sewer is not available under the provisions of this section, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

(C) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the County Sanitarian Health Inspectors. The application for the permit shall be made on a form furnished by the county, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the County Sanitarian Health Inspectors.

(D) A permit for private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Sanitarian. The Sanitarian shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Sanitarian when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the Sanitarian.

(E) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the State Department of Natural Resources and Community Development, Division of Environmental Management. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is not large enough to accommodate both a septic tank, its drainage field, plus a reserve drainage field. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

(F) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the county.

(G) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the County Sanitarian Health Inspectors.

(H) Any violation of this Section shall be subject to the penalties as described in § 51.999 herein. (Ord. passed 8-22-1994; Ord. passed - -; Ord. passed - -) Penalty, see § 51.999
WASTEWATER DISCHARGE PERMIT APPLICATION AND ISSUANCE

§ 51.050 WASTEWATER DISCHARGES.
It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the county. When requested by the POTW Director, a user must submit information on the nature and characteristics of its wastewater within seven days of the request. The POTW Director is authorized to prepare a form for this purpose and may periodically require users to update this information. Any violation of this Section shall be subject to the penalties as described in § 51.999 herein.
(Ord. passed 8-22-1994) Penalty, see § 51.999

REPORTING REQUIREMENTS

§ 51.065 BASELINE MONITORING REPORTS.
(A) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 C.F.R. § 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the POTW Director a report which contains the information listed in division (B) below. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the POTW Director a report which contains the information listed in division (B) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants to be discharged.

(B) Users described above shall submit the information set forth below:
(1) Identifying information. The name and address of the facility, including the name of the operator and owner;
(2) Environmental permits. A list of any environmental control permits held by or for the facility;
(3) Description of operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by the user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes;
(4) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 C.F.R. § 403.6(e);
(5) Measurement of pollutants.
   (a) The categorical pretreatment standards applicable to each regulated process;
   (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW Director, or regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 51.074; and
   (c) Sampling must be performed in accordance with procedures set out in § 51.075.
(6) Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements;
(7) **Compliance schedule.** If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide the additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 51.066; and

(8) **Signature and certification.** All baseline monitoring reports must be signed and certified in accordance with § 51.051.

(C) Any violation of this Section shall be subject to the penalties as described in § 51.999 herein.

(Ord. passed 8-22-1994) **Penalty, see § 51.999**

§ 51.066 COMPLIANCE SCHEDULE PROGRESS REPORTS.

(A) **Generally.** The following conditions shall apply to the compliance schedule required by § 51.065.

(B) **Specifically.**

(1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (the events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation).

(2) No increment referred to above shall exceed nine months.

(3) The user shall submit a progress report to the POTW Director no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule.

(4) In no event shall more than nine months elapse between the progress reports to the POTW Director.

(C) Any violation of this Section shall be subject to the penalties as described in § 51.999 herein.

(Ord. passed 8-22-1994) **Penalty, see § 51.999**

§ 51.069 REPORTS OF CHANGED CONDITIONS.

(A) Each user must notify the POTW Director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 60 days before the change.

(B) The POTW Director may require the user to submit the information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 51.051.

(C) The POTW Director may issue a wastewater discharge permit under § 51.051 or modify an existing wastewater discharge permit under § 51.051 in response to changed condition or anticipated changed conditions.

(D) For purposes of this requirement, significant changes include, but are not limited to, flow increases of 10% or greater, and the discharge of any previously unreported pollutants.

(E) Any violation of this Section shall be subject to the penalties as described in § 51.999 herein.

(Ord. passed 8-22-1994) **Penalty, see § 51.999**

§ 51.070 REPORTS OF POTENTIAL PROBLEMS.
(A) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW Director of the incident. This notification shall include the location of this discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(B) (1) Within five working days following the discharge, the user shall, unless waived by the POTW Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences.

(2) The notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall the notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(C) (1) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in division (A) above.

(2) Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedures.

(D) Any violation of this Section shall be subject to the penalties as described in § 51.999 herein.

§ 51.071 REPORTS FROM UNPERMITTED USERS.
All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the POTW Director as the POTW Director may require. Any violation of this Section shall be subject to the penalties as described in § 51.999 herein.

§ 51.072 NOTICE OF VIOLATION; REPEAT SAMPLING AND REPORTING.
If sampling performed by a user indicates a violation, the user must notify the POTW Director within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW Director within 30 days after becoming aware of the violation. The user is not required to resample if the POTW Director monitors at the user's facility at least once a month, or if the POTW Director samples between the user's initial sampling and when the user received the results of this sampling. Any violation of this Section shall be subject to the penalties as described in § 51.999 herein.

§ 51.073 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.
(A) The municipality may choose to prohibit the discharge of hazardous waste.

(B) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. pt. 261. The notification must include the name of the hazardous waste as set forth in 40 C.F.R. pt. 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of the waste per calendar month to the POTW, the notification also shall contain the following information to the extent the information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, as estimation of the mass and concentration of the constituents in the wastestream discharge during the calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 180
days after the discharge commences. Any notification under this division (B) need to be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under § 51.069. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 51.065, 51.067, and 51.068.

(C) Discharges are exempt from the requirements of division (A) above, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 C.F.R. §§ 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous waste in a calendar month, or of any quantity of acute hazardous waste as specified in 40 C.F.R. §§ 261.30(d) and 261.33(e), requires a onetime notification. Subsequent months during which the user discharges more than the quantities of any hazardous waste do not require additional notification.

(D) In the case of any new regulation under § 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW Director, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of the substance within 90 days of the effective date of the regulations.

(E) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous waste generated to the degree it has determined to be economically practical.

(F) The provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law.

(G) Any violation of this Section shall be subject to the penalties as described in § 51.999 herein. (Ord. passed 8-22-1994) Penalty, see § 51.999

§ 51.075 SAMPLE COLLECTION.

(A) Except as indicated in division (B) below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the POTW Director may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(B) Samples for oil and grease, temperature, pH cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(C) Any violation of this Section shall be subject to the penalties as described in § 51.999 herein. (Ord. passed 8-22-1994) Penalty, see § 51.999

§ 51.077 RECORD KEEPING.

Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of the requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the date analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of the analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the county, or where the user has been specifically notified of a longer retention period by the POTW Director. Any violation of this Section shall be subject to the penalties as described in § 51.999 herein. (Ord. passed 8-22-1994) Penalty, see § 51.999
CONFIDENTIAL INFORMATION

§ 51.105 GENERALLY.
(A) Information and data on a user obtained from reports, questionnaires, permit applications, permits, and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically request and is able to demonstrate to the satisfaction of the POTW Director that the release of the information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data.

(B) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) permit, non-discharge permit, and/or the pretreatment programs; provided, however, that the portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(C) All records relating to compliance with pretreatment standards shall be made available to officials of the approval authority and EPA upon request.

(D) Any violation of this Section shall be subject to the penalties as described in § 51.999 herein.
(Ord. passed 8-22-1994)

ENFORCEMENT

§ 51.121 OTHER AVAILABLE REMEDIES.
(A) Remedies, in addition to those previously mentioned in this chapter, are available to the POTW Director who may use any single one or combination against a noncompliant user.

(B) Additional available remedies include, but are not limited to:

1. Criminal violations. The District Attorney for the Judicial District may, as the request of the county, prosecute noncompliant users who violate pursuant to the provisions of N.C.G.S. § 143-215.6B;

2. Injunctive relief. Whenever a user is in violation of the provisions of this chapter or any order or permit issued hereunder, the POTW Director, through the County Attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question;

3. Water supply severance. Whenever an industrial user is in violation of the provisions of this chapter or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply; and

4. Public nuisances. Any violation of the prohibitions or effluent limitations of this chapter or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the POTW Director.

(Ord. passed 8-22-1994)

AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

§ 51.152 BYPASS.
A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of divisions (B) and (C) below.

(B)

(1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW Director, at least ten days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the POTW Director of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(C)

(1) Bypass is prohibited, and the POTW Director may take an enforcement action against a user for a bypass, unless:
   
   a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
   
   b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
   
   c) The user submitted notices as required under division (B) above.

(2) The POTW Director may approve an anticipated bypass, after considering its adverse effects, if the POTW Director determines that it will meet the three conditions listed in division (C)(1) above.

(D) Any violation of this Section shall be subject to the penalties as described in § 51.999 herein.

(Ord. passed 8-22-1994) Penalty, see § 51.999

Section 5. Chapter 52 of the Lincoln County Code of Ordinances is amended as follows:

GENERAL PROVISIONS

§ 52.11 SOLID WASTE ON PROPERTY; PROHIBITIONS; REMOVAL.

(A) Prohibitions. Generally, it shall be unlawful for any person to:

(1) Maintain, allow, cause or permit the accumulation of excessive, unsightly, or improperly contained (as determined by the provisions of this chapter relating to containers) solid waste upon premises owned, occupied, or controlled by that person; or

(2) In any manner, place or allow to remain on property any solid waste in such a quantity and manner as to constitute a nuisance;

(3) Cause or create the likelihood of injury to the health or welfare of other persons; or

(4) Cause or create the likelihood of injury to adjoining property.
(B) Notice to remove. Notwithstanding any provision of division (A) of this section, no person shall be deemed to have violated the provisions of this section who, within ten days after receiving a written notice to remove from the Solid Waste Manager or designee, removes the prohibited solid waste from the property.

(C) Restaurants. Food service establishments shall be subject to state regulations governing the sanitation of food service establishments. All restaurants shall be required to have a bulk container.

(D) Penalty. Violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and shall be subject to monetary fines and injunctive relief as provided in §52.99 herein.

(Ord. passed 9-18-2017) Penalty, see § 52.99

§ 52.12 LITTERING AND SCAVENGING PROHIBITED.

(A) It shall be unlawful for any person to litter the ground on a county-owned property (including a recycling and convenience site) by throwing, dumping, or dropping thereon any solid waste as defined in § 52.10.

(B) It shall be unlawful for any person to pilfer or scavenge at any county solid waste management facility, a county recycling and convenience site, or any sanitary landfill site. This includes all county employees.

(C) Penalty. Violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and shall be subject to monetary fines and injunctive relief as provided in §52.99 herein.

(Ord. passed 9-18-2017) Penalty, see § 52.99

§ 52.13 TIRES.

All scrap tires shall be delivered to the designated scrap tire disposal facility and disposed of in the approved manner as provided in the Scrap Tire Disposal Act (G.S. § 130A-309, Pt. 2B). Any violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and shall be subject to monetary fines and injunctive relief as provided in §52.99 herein.

(Ord. passed 9-18-2017) Penalty, see § 52.99

PRE-COLLECTION OF SOLID WASTE

§ 52.21 CONTAINERS.

Containers or receptacles shall be used for the collection and storage of solid wastes, and shall be constructed as to accommodate and properly control wastes prior to disposal. Containers and receptacles shall be maintained in serviceable condition at all times and located so that no unsightly condition, health hazards, or nuisances are created, and in such a manner as to be durable, watertight, fly-proof, and rodent-proof. Under no condition shall liquid or putrescible wastes be stored in open containers or receptacles. Automobiles, including but not limited to, cars, pickup trucks, non-enclosed trailers, and boats, shall not be considered appropriate garbage containers or receptacles. Any violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be
§ 52.22 RESIDENTIAL REQUIREMENTS.

(A) Solid waste from single-family residential units shall be placed in appropriate garbage receptacles.

(B) Solid waste from multiple residential units, including but not limited to, manufactured home parks, duplexes, apartments, and condominiums, shall be placed in garbage receptacles or bulk containers. If a bulk container is not provided, a sufficient number of containers shall be provided to hold at least one week’s accumulation of garbage. Garbage receptacles and bulk containers shall be emptied on a regular basis so as to prevent a public health hazard or nuisance.

(C) **Penalty.** Violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and shall be subject to monetary fines and injunctive relief as provided in §52.99 herein.

(Ord. passed 9-18-2017) **Penalty, see § 52.99**

§ 52.23 COMMERCIAL, INSTITUTIONAL, AND INDUSTRIAL REQUIREMENTS.

Solid waste from commercial, institutional, and industrial establishments shall be placed in garbage receptacles, bulk containers, or other containers. Liquid or putrescible wastes shall be placed in containers constructed of durable metal or plastic that are watertight and have tight-fitting lids, with handles sufficient for convenient handling. Any violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and shall be subject to monetary fines and injunctive relief as provided in §52.99 herein.

(Ord. passed 9-18-2017) **Penalty, see § 52.99**

§ 52.24 RECYCLING AND CONVENIENCE SITES.

Recycling and convenience sites are provided by the county at designated places for the exclusive use of county residents, and shall be used as specified in this chapter for the disposal of household solid waste and recyclable material only. Dead animals, hazardous wastes, demolished structures, and additional items as described in the Operating Procedures Manual shall not be disposed of at recycling and convenience sites. Recycling and convenience sites shall not be used by commercial, institutional, or industrial establishments. Any violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and shall be subject to monetary fines and injunctive relief as provided in §52.99 herein.

(Ord. passed 9-18-2017) **Penalty, see § 52.99**

§ 52.25 RECYCLABLE MATERIALS; YARD WASTE; REQUIREMENTS.

(A) Prohibited waste materials. No person may dispose of those solid waste materials in a landfill that are prohibited by G.S. § 130A-309.10(f).

(B) Yard waste. Leaves, grass trimmings, tree trimmings, shrubbery trimmings, or other yard waste shall be accepted at the designated yard waste area at the landfill site and must be emptied from bags before being accepted. Yard waste may be accepted at designated recycling and convenience sites and the landfill.
(C) **Penalty.** Violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and shall be subject to monetary fines and injunctive relief as provided in §52.99 herein. 

(Ord. passed 9-18-2017) **Penalty, see § 52.99**

**FRANCHISING; COLLECTION AND TRANSPORTATION OF SOLID WASTE**

§ 52.30 GENERAL REQUIREMENT.

(A) Franchise vehicles used for the collection and transportation of solid wastes shall be loaded and moved in such a manner that the contents will not fall, leak, or spill onto a county property, and shall be covered by an approved method. Solid waste in plastic bags shall not be considered covered. If spillage should occur, the materials shall be picked up immediately by the person or collector and returned to the vehicle or container.

(B) If any object of solid waste is discovered on county property other than specifically designated for that use, bearing a person’s name, address, or any other means of identification of a person or persons, it shall be prima facie evidence of ownership. The Solid Waste Manager or designee shall make an attempt to contact the person or persons so identified, and advise those individuals to clean up the objects of solid waste by taking them to a designated county landfill, with those individuals being advised to return to the Solid Waste Manager or designee within ten days with a receipt from a county landfill indicating the deposit of the objects in the landfill. If the person or persons fail to comply with the specific directions of the Solid Waste Manager or designee, the failure to comply shall be considered a violation of this chapter.

(C) No waste generated outside the boundaries of the county may be disposed of at a county landfill site or at a recycling and convenience site.

(D) Solid waste collectors and transporters permitted by the county to haul municipal solid waste must dispose of municipal solid waste at facilities permitted and operated within the county. Municipal solid waste generated within the county must be disposed at the county landfill at 5291 Crouse Road, Crouse, NC.

(E) Commercial, industrial, and institutional establishments shall be totally responsible for the proper collection and transportation of any and all of their solid wastes. All commercial, industrial, and institutional establishments failing to comply with the terms, conditions, and provisions of this chapter shall be subject to all fines, penalties, and punishment contained herein.

(F) The landfill shall be designated to accept solid waste generated exclusively by residents, businesses, and other institutions located in the county.

(G) No person, except permitted private collectors, county or municipal collectors, shall collect or remove any solid waste within the county for disposal.

(H) **Penalty.** Violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and shall be subject to monetary fines and injunctive relief as provided in §52.99 herein. 

(Ord. passed 9-18-2017) **Penalty, see § 52.99**

§ 52.31 RESIDENTIAL REQUIREMENTS.

All residential solid wastes generated within the county shall be conveyed to an approved and permitted in the county sanitary landfill site or a county-operated solid waste management facility by approved and licensed private agencies or by individuals. Individuals residing in the county may deposit household wastes at recycling and convenience sites in accordance with this chapter. Any
violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and shall be subject to monetary fines and injunctive relief as provided in §52.99 herein.

(Ord. passed 9-18-2017) Penalty, see § 52.99

§ 52.32 COMMERCIAL, INDUSTRIAL, AND INSTITUTIONAL REQUIREMENTS.

Commercial, industrial, and institutional establishments shall provide for disposal of solid waste by authorized collection agencies, or shall be individually responsible for disposal of waste in accordance with the provisions of this chapter. No commercial, industrial, or institutional wastes shall be disposed of at recycling and convenience sites. Commercial, industrial, and institutional establishments shall be subjected to any fees as may be approved by the Board or as may be provided by this chapter. Any violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and shall be subject to monetary fines and injunctive relief as provided in §52.99 herein.

(Ord. passed 9-18-2017) Penalty, see § 52.99

§ 52.33 PERMITTING OF SOLID WASTE COLLECTORS AND TRANSPORTERS.

(A) No person may engage in the business of solid waste collection and/or transportation prior to receiving all required county permits.

(B) All persons who collect or transport solid waste in the county must apply annually for a permit before collecting or transporting solid wastes. The applicant shall furnish the following information to the Solid Waste Manager during the application process:

1. Name of applicant and whether a sole proprietorship, partnership, corporation, or other business entity, with a disclosure of the ownership’s interest;
2. Home address, business address and both business and home phone number of applicant;
3. A list of equipment used by applicant in his or her everyday business;
4. Number of individuals employed by the business;
5. Experience of the applicant in solid waste collection;
6. License plate numbers of all solid wastes trucks used in the business;
7. Planned routes and/or areas of the county the applicant expects to serve;
8. Location of disposal facility to be used;
9. Schedule of charges the applicant plans to charge for services;
10. Proof of liability insurance.

(C) The applicant may cause to be inspected all facilities and equipment used in the solid waste collection/transporting business before a permit is issued by the county to the applicant, when it is determined that all equipment used by the applicant's business is found to be clean and in good working condition.

(D) An applicant who has been denied a permit may request a hearing before the County Manager. The County Manager shall keep summary notes of the hearing and notify the applicant at least ten days after the hearing, in writing, of his or her decision. If the permit is still denied, the applicant may appeal the County Manager’s decision to the Board of County Commissioners. The Board of County Commissioners shall either affirm the denial or direct the Solid Waste Manager to issue the permit to the applicant.

(E) A permit to collect and transport solid wastes in the county shall expire annually on September 1.
(F) A permitted solid waste collector/transporter shall submit a quarterly report to the county containing the following information:

   (1) Number of customers added or deleted since the last quarterly report;
   (2) Any changes in routes or areas served by the business;
   (3) Any new, deleted, or replaced equipment added to the business;
   (4) Any other pertinent information requested by the county.

(G) No permit issued pursuant to this chapter is assignable.

(H) Penalty. Violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and shall be subject to monetary fines and injunctive relief as provided in §52.99 herein. (Ord. passed 9-18-2017) Penalty, see § 52.99

§ 52.35 HAZARDOUS SOLID WASTE AND LIQUID WASTE.

No hazardous solid waste, as defined in G.S. § 130A-290, or liquid waste shall be placed in any receptacle used for collection of waste by the county. Hazardous or highly combustible waste shall not be disposed of at any county solid waste management facility. County Solid Waste may assist in managing the disposition of certain materials to appropriate facilities for processing. Any violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and shall be subject to monetary fines and injunctive relief as provided in §52.99 herein. (Ord. passed 9-18-2017) Penalty, see § 52.99

§ 52.36 LOT CLEARING OR CONSTRUCTION.

Materials such as trees, shrubbery, or underbrush resulting from land being cleared will not be picked up by county staff. Building materials shall be collected, removed, and disposed of by the contractor or builder, or in the event of his or her failure to do so, by the owner of the property. No such materials shall be disposed of at recycling and convenience sites. Any violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and shall be subject to monetary fines and injunctive relief as provided in §52.99 herein. (Ord. passed 9-18-2017) Penalty, see § 52.99

§ 52.37 CASUALTY DAMAGED SOLID WASTE.

No owner, occupant, tenant, or lessee of any commercial, industrial, or residential premises shall permit the solid waste from any building or other structure that has been damaged beyond repair by fire, storm, or other casualty, to remain on the premises for more than six months after the event, unless subject to ongoing investigations by the Fire Marshal or other local or state entity. Any violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and shall be subject to monetary fines and injunctive relief as provided in §52.99 herein. (Ord. passed 9-18-2017) Penalty, see § 52.99

LANDFILL SITE
§ 52.80 METAL DRUMS RESTRICTED.

Metal 55-gallon drums, such as oil and chemical containers, shall not be accepted at the landfill site, unless the drums have both ends (top and bottom) completely removed and meet other requirements of this chapter. Any violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and shall be subject to monetary fines and injunctive relief as provided in §52.99 herein.

(Ord. passed 9-18-2017) Penalty, see § 52.99

§ 52.81 LIMITATIONS.

(A) From time to time, certain solid waste may arrive at the landfill site that, in the opinion and judgment of the operators of the site, would be hazardous or detrimental to personnel or operators. The operators may delay the unloading of these wastes until the Director of Health, or his or her representative, has the opportunity to review the situation and decide upon the disposition of the waste. With regard to the decision upon the disposition, appeal may be made by the hauler to the County Manager, whose decision shall be final and not subject to appeal.

(B) In order to properly operate the landfill site, the duly authorized landfill operators of necessity must exercise discretion as to where certain types of solid wastes are unloaded. Persons delivering wastes to the landfill site shall be required to discharge the wastes at locations as directed by the operator. This provision shall under no circumstances empower landfill site operators to require that drivers make or attempt maneuvers that would abuse or injure equipment or that would jeopardize the safety of the driver or equipment.

(C) No solid waste from outside the county shall be accepted at the landfill site or at recycling and convenience sites.

(D) Penalty. Violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and shall be subject to monetary fines and injunctive relief as provided in §52.99 herein.

(Ord. passed 9-18-2017) Penalty, see § 52.99

§ 52.82 UNLAWFUL ENTRY TO THE LANDFILL SITE.

It shall be unlawful for any person to enter the landfill or a recycling and convenience site outside of times of normal operations, except persons specifically authorized. Any person violating this provision shall be prosecuted for trespass under state law. Any violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and shall be subject to monetary fines and injunctive relief as provided in §52.99 herein.

(Ord. passed 9-18-2017) Penalty, see § 52.99

§ 52.83 REFUSAL TO ALLOW DEPOSIT.

The operator of a landfill site or a solid waste management facility shall not allow the deposit therein of solid waste from a vehicle that has been loaded or moved in such a manner as to fail to comply with the provisions of this chapter. Any violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and shall be subject to monetary fines and injunctive relief as provided in §52.99 herein.

(Ord. passed 9-18-2017) Penalty, see § 52.99
§ 52.84 TAMPERING WITH EQUIPMENT.
It shall be unlawful for any unauthorized person to operate, tamper with, enter, pilfer, or damage any structures, equipment, or machinery at the landfill site. Any violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and shall be subject to monetary fines and injunctive relief as provided in §52.99 herein.
(Ord. passed 9-18-2017) Penalty, see § 52.99

Section 6. Chapter 70 of the Lincoln County Code of Ordinances is amended as follows:

§ 70.03 GEOGRAPHIC COVERAGE.
These regulations shall apply to all real property owned by the Lincoln County and held and maintained for governmental and related purposes to provide services to its citizens and those properly utilizing the facilities thereon, including, but not limited to, the following:
—(A) The Lincoln County Courthouse site, bounded on all sides by the Main Street traffic circle in Lincolnton, North Carolina;
—(B) The Lincoln County Citizens Center site, bounded by W. Main, S. Aspen, Water, and S. Government Streets in Lincolnton, North Carolina;
—(C) The Lincoln County Jail site, bounded by Water, S. Government, and Church Streets, and the Lincoln County Farmers Market site in Lincolnton, North Carolina;
—(D) The Lincoln County Farmers Market site, bounded by Water, Church, and S. High Streets and the Lincoln County Jail site in Lincolnton, North Carolina;
—(E) The Lincoln County Public Works Garage site, located at the corner of Water Street and S. Grove Street in Lincolnton, North Carolina;
—(F) The Academy Street Building property, located at the corner of Academy Street and Congress Street in Lincolnton, North Carolina;
—(G) The Human Resource Building property, located at the corner of Sigmon Road and 321-Bypass in Lincolnton, North Carolina;
—(H) The Main Library site, bounded by W. Main, N. High, and Sycamore Streets in Lincolnton, North Carolina;
—(I) The Lincoln County Landfill property, located on Crouse Road in the Howards Creek Township of the county;
—(J) The Howards Creek School property, located on School Road in the Howards Creek Township of the county;
—(K) The Lincolnton-Lincoln County Regional Airport property, located on Airport Road in the Ironton Township of the county;
—(L) The Lincoln County Water Plant property, located on Tree Farm Road in the Catawba Springs Township of the county;
—(M) The Lincoln County Animal Shelter property, located on Boy Scout Road in the Lincolnton Township of the county; and
—(N) All manned convenience centers operated by the county and located in the county, such as:
— (1) Owl's Den Convenience Center;
— (2) Car Farm Road Convenience Center; and
— (3) Webb's Chapel Road Convenience Center.
(Ord. passed 5-4-1992)
§ 70.05 AUTHORIZATION OF PARKING BY LAW ENFORCEMENT OFFICIALS, COUNTY OFFICIALS, EMPLOYEES, AND THE LIKE.

The County Manager may authorize law enforcement officials, county officials, agents, employees or other officials to park on county-owned property referred to in § 70.03. The County Manager may authorize the designation of reserved parking spaces to be used only by those designated officials. Reserved parking spaces shall be identified by a posted sign that indicates the designated official(s) that is authorized to park in the reserved space. Any unauthorized vehicle found parked in a reserved parking space will be considered in violation of this chapter. Any violation of this Section shall be punishable as an infraction, and shall be subject to a penalty of not more than Fifty Dollars ($50.00) as provided in N.C.G.S. § 14-4.

(Ord. passed 5-4-1992) Penalty, see § 10.99

§ 70.07 UNAUTHORIZED PARKING.

It shall be unlawful for any person to park a vehicle upon the county-owned property referred to in § 70.03, unless the person has been authorized to as provided in this chapter. Any violation of this Section shall be punishable as an infraction, and shall be subject to a penalty of not more than Fifty Dollars ($50.00) as provided in N.C.G.S. § 14-4.

(Ord. passed 5-4-1992) Penalty, see § 10.99

§ 70.08 DESIGNATION OF HANDICAPPED PARKING SPACES.

(A) The county shall designate handicapped parking spaces in county-owned parking lots as required by federal and state statute. The designated handicapped parking spaces will be identified with a sign that is in accordance with all federal and state guidelines.

(B) It shall be unlawful for any person to park in a designated handicapped parking space unless their vehicle displays a state-issued handicapped license plate, placard, or identification card or a disabled veteran registration plate issued pursuant to G.S. § 20-79.4.

(C) Any vehicle displaying an out-of-state handicapped license plate, placard, or other evidence of handicap issued by the appropriate authority of the appropriate jurisdiction may park in any space reserved for the handicapped.

(D) Any vehicle that is deemed to be illegally parked in a designated handicapped parking space will be removed from the county-owned parking lot in accordance with § 70.10.

(E) Violation of this Section shall be punishable as an infraction, and shall be subject to a penalty of not more than Fifty Dollars ($50.00) as provided in N.C.G.S. § 14-4.

(Ord. passed 5-4-1992) Penalty, see § 10.99

Section 7. Chapter 71 of the Lincoln County Code of Ordinances is amended as follows:

GOLF CARTS

§ 71.04 RULES AND REGULATIONS.
The subchapter establishes guidance in the interest of public safety.

(A) Golf carts shall not be operated on or alongside a public road or street with a posted speed limit greater than 35 miles per hour. The County Sheriff may designate certain roads that meet the speed limit criteria as being unsafe for use by golf carts. In such cases, no golf cart shall be operated on those designated roads.

(B) Golf carts may cross a road with a posted speed limit greater than 35 mph. However, once this segment of road has been traversed, the golf cart is still required to travel only on or along a roadway
with a speed limit of 35 mph or less. Golf carts must cross in a manner that is the most direct route in order to decrease crossing distance, i.e., no riding along a road or crossing at an angle. Even if the speed limit is 35 mph or less, golf carts shall not be operated on any sections of roadway with four or more lanes. Under no circumstance is a golf cart allowed to cross a control access facility other than at bridges that cross over or under a control access facility.

(C) Any owner of a golf cart shall be responsible for all liability associated with operation of the golf cart, and must have liability insurance coverage that will cover the use of a golf cart, in an amount not less than required by state law for motor vehicles operated on public highways in the state.

(D) Anyone who operates a golf cart must be 16 years of age or older.

(E) Any person who operates a golf cart on public streets and roads must adhere to all applicable state and local laws, regulations and ordinances, including but not limited to, those banning the possession and use of alcoholic beverages, and all other illegal drugs. In addition, no golf cart containing any open container of alcohol shall be operated on public roads.

(F) The operator of the golf cart shall comply with all traffic rules and regulations adopted by the state and the county that govern the operation of motor vehicles.

(G) An operator shall not allow the number of people in the golf cart at any one time to exceed the maximum capacity specified by the manufacturer. The operator shall not allow passengers to ride on any part of a golf cart not designed to carry passengers, such as the part of the golf cart designed to carry golf bags; this is included only as an example and is not an exhaustive list.

(H) An operator shall operate the golf cart at a speed that is the lesser of either:

1. Twenty miles per hour; or
2. The speed that is reasonable and prudent for the existing conditions.

(I) Golf carts must be operated at the right edge of the roadway and the operator thereof must yield to all vehicular and pedestrian traffic.

(J) Operators must park golf carts in designated spaces in such a manner that multiple golf carts can utilize the space. All parking rules and limits apply. No parking on sidewalks is allowed.

(K) Golf carts must have basic equipment supplied by the manufacturer, including a vehicle identification or serial number. Required equipment must include: a rearview mirror, two headlights and two tail lights permanently affixed if the golf cart is operated under any conditions of limited visibility, and a rear triangle reflector of the same type required by state law.

(L) If a mechanical turn signal indicator is not installed on a golf cart, then the operator must use hand signals for turns.

(M) Violation. Any violation of this Section shall be punishable as an infraction, and shall be subject to a penalty of not more than Fifty Dollars ($50.00) as provided in N.C.G.S. § 14-4.

(Ord. 2018-01, passed 12-3-2018)

§ 71.99 PENALTY.
Violation of the provisions of §§ 71.01 et seq. shall constitute an infraction in accordance with G.S. § 14-4(b). The penalty (to the owner of the cart) for an offense shall be $50.
(Ord. 2018-01, passed 12-3-2018)

**Section 8.** Chapter 90 of the Lincoln County Code of Ordinances is amended as follows:

§ 90.05 SERVICE CHARGE ASSESSMENT FOR FALSE ALARMS.

(A) Excessive false alarms. It is hereby found and determined that four or more false alarms within any 12-month period is excessive and constitutes a public nuisance. (Only one false alarm per calendar
day will be assessed for each alarm system, upon finding common cause. COMMON CAUSE is defined as a technical difficulty or malfunction causing the system to generate a series of false alarms, all of which occurs within a calendar day. The series of false alarms shall be counted as one false alarm only if the cause of the series of alarms is repaired before generating additional false alarms during the next 24-hour calendar day.)

(B) Civil penalties.

(1) All excessive false alarms within a 12-month period shall be charged the fines and charges set out below, which shall be considered a bill owed by the alarm user to the county and may be collected from the alarm user as a civil penalty. Each service charge incurred for false alarms at the premises shall be paid within 30 days from the date of receipt of the invoice. Failure to pay any such charge, bill or fee shall result in discontinuance of Sheriff's Office response.

(b) Eligibility for Sheriff's Office response to alarm calls will be made upon receipt of any prior unpaid, civil penalties assessed pursuant to this section and receipt of the applicable charges as set forth below:

<table>
<thead>
<tr>
<th>Number of False Alarms</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>4th through 5th</td>
<td>$25 per occurrence</td>
</tr>
<tr>
<td>6th through 8th</td>
<td>$50 per occurrence</td>
</tr>
<tr>
<td>9th through 11th</td>
<td>$100 per occurrence</td>
</tr>
<tr>
<td>12th or more</td>
<td>$200 per occurrence</td>
</tr>
</tbody>
</table>

(C) Year. For the purposes of this section, a year shall mean a 12-month period beginning on January 1 and ending on December 31.

(D) Discontinuance of Sheriff's Office response. The failure of an alarm user to make payment of any service charge imposed under this section within 30 days from the date of receipt on invoice shall result in discontinuance of Sheriff's Office response to alarms that may occur at the premises described, until payment is received. (With exception of receiving a separate indication that there is a crime or incident in progress the premises, requiring a Sheriff's Office response such as holdup alarm; panic alarm; duress alarm; or other alarm indicating an authorized person(s) is on the premises and intentionally activating the alarm to cause a Sheriff's Office response.)

(E) Responsibility to pay service fees or penalties subject to this section shall be the responsibility of the alarm subscriber or alarm user, jointly and severally. The owner of a proprietor alarm shall be solely responsible.

(F) Penalty. Any violation of this Section shall be subject to the penalties as described in § 90.99 herein.

(Ord. passed 11-5-2012)

§ 90.06 PROHIBITED ACTS.

(A) It shall be unlawful for any person to violate any provision of this chapter.

(B) It shall be unlawful for any person to activate a burglary or robbery/holdup or panic or fire alarm for the purpose of summoning Sheriff's personnel when no such action or other action dangerous to life or property is being committed or attempted or involved on the premises, or otherwise to cause a false alarm.

(C) It shall be unlawful for an alarm user to fail to reimburse Lincoln County, in accordance with the provisions of this chapter, for response(s) by Lincoln County Sheriff's Office to any false alarm(s).

(D) Any violation of this Section shall be subject to the penalties as described in § 90.99 herein.
Section 9. Chapter 91 of the Lincoln County Code of Ordinances is as follows:

NOISE

§ 91.02 LOUD, RAUCOUS, AND DISTURBING NOISE.

(A) It shall be unlawful for any person or group of persons, regardless of number, to willfully make, continue, or cause to be made or continued any loud, raucous, and disturbing noise, which term shall mean any sound which, because of its volume level, duration, and character, annoys, disturbs, injures, or endangers the comfort, health, peace, or safety of reasonable persons of ordinary sensibilities within the limits of the county. The term LOUD, RAUCOUS, AND DISTURBING NOISE shall be limited to loud, raucous, and disturbing noises heard upon the public streets, in any public park, in any school or public building or upon the grounds thereof while in use, in any church or hospital or upon the grounds thereof while in use, upon any parking lot open to members of the public as invitees or licensees, or in any occupied residential unit which is not the source of the noise or upon the grounds thereof.

(B) Penalty. Violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and shall be subject to monetary fines and injunctive relief as provided in §91.99 herein.

JUNKYARD CONTROL

§ 91.20 GENERAL STANDARDS.

(A) Preexisting. The following criteria shall be applicable to preexisting junkyards which are registered within 180 days of the effective date of this subchapter. No portion of any junkyard shall be operated, maintained, or established, except those junkyards meeting any of the following conditions:

1. Those which are screened by natural land features or vegetation, berms, plantings, opaque fences, or other appropriate means which sufficiently preserves the policy and intent of this subchapter so as not to be visible from the main-traveled way of any primary or secondary road at any season of the year;

2. Those which are further than 1,000 feet from the main-traveled way of a primary or secondary road at any season of the year; and/or

3. Those which are either not visible from adjoining properties because of screening with natural land features or vegetation, berms, plantings, opaque fences, or other appropriate means and honor minimum front, rear, and side yard setbacks established in § 91.22 or are screened and/or fenced in accordance with § 91.22.

(B) New. The following criteria shall be applicable to new junkyards. All junkyards which are established from and after the effective date this subchapter, or that have been issued a current valid permit to establish, operate, or maintain a junkyard, as provided in § 91.26, shall meet the following standards:

1. Be situated on a continuous parcel of at least five acres excluding rights-of-way that is undivided by road right-of-way or public dedication;

2. Have a minimum front line of 100 feet on a public right-of-way with a driveway entrance that has a centerline not closer than 30 feet to side property lines;

3. Have a minimum setback to the fence from front, side, and rear property lines, excluding right-of-way of at least 100 feet;
(4) Be screened as herein provided, or not visible from the main-traveled way of a primary or secondary road at any season of the year;

(5) Not be located closer than 300 feet to either a preexisting church, school, day-care center, nursing home, skilled health care facility, residence, hospital, public buildings, or public recreational facilities. On-site residence of the property owner or his or her agent may be permitted by written waiver of the Ordinance Administrator; and

(6) Fenced, screened, and maintained as provided for in § 91.22.

(C) Penalty. Violation of this Section shall be subject only to monetary fines and injunctive relief as provided in §91.99 herein. A violation of this Section shall not be punishable as a criminal offense pursuant to N.C.G.S. §153A-123(b1).

(Ord. passed 1-8-1990; Ord. passed 6-6-2014) Penalty, see § 91.99

§ 91.21 EXEMPTIONS.

(A) Bona fide service stations or garages, as defined by this subchapter, are exempted.

(B) This subchapter shall in no way regulate, restrict, prohibit, or otherwise deter a bona fide farm and its related uses.

(C) Recycling centers using enclosed structures or solid waste containers, bins, truck trailers, and rolling stock and equipment are exempted from this subchapter. Materials collected or equipment used at recycling centers and kept in outdoor storage containers, bins, vans trucks, and rolling stock or simply outdoors must be screened and fenced in accordance with this subchapter.

(Ord. passed 1-8-1990; Ord. passed 6-6-2014) Penalty, see § 91.99

§ 91.22 FENCING AND SCREENING REQUIREMENTS.

(A) Generally. All new junkyards established in accordance with this subchapter and all preexisting junkyards may be operated subject to the fencing and screening conditions.

(B) Preexisting. Junkyards in existence on the effective date of this subchapter, including any junkyard along any road or highway which may be hereafter designated as a primary or secondary road, may comply with this subchapter by registering and meeting the requirements for preexisting junkyards as set forth in § 91.20(A)(1) and (A)(2), or meeting one of the following conditions:

   (1) Remove junk and equipment that may be located within 50 feet of the property lines to an area further than 50 feet from the property lines. Install an all-season vegetation screening between junk materials and property lines. Thereby, the owner has agreed to honor setbacks of 50 feet and maintain an all-season vegetation screening; or

   (2) Screen and fence the junkyard in accordance with the screening and fencing provisions of division (C) below for new junkyards.

(C) New. Junkyards established after the effective date of this subchapter may comply with this subchapter by registering, meeting the requirements of § 91.20(B), and meeting the fencing and screening requirements of this section.

   (1) The junkyard shall be entirely surrounded by an opaque fence at least six feet in height or by either a woven or welded wire (14-gauge minimum) or chain link fence a minimum of six feet in height and with vegetation that provides a continuous all-seasons opaque screen (six feet in height). The fence and vegetation shall surround the minimum area necessary for the junkyard to not be visible from a point at the same elevation as the junkyard and also maintained at its present size. Vegetation shall be planted on the outbound side of the fence, contiguous to, and not more than five feet from the fence. Vegetation that serves as screening shall be of a type that can reach a minimum height of six feet within five years from the date planted and shall be planted at intervals evenly spaced and in close proximity to each other so that a continuous, unbroken hedgerow (without gaps or open spaces) will exist to a height of at least six feet along the length of the fence surrounding the junkyard or automobile
graveyard. The hedgerow shall be maintained as a continuous, unbroken hedgerow for the period the property is used as a junkyard. Each owner, operator, or maintainer of a junkyard shall utilize good husbandry techniques, for example, pruning, mulching, and proper fertilization, so that the vegetation can reach a height of six feet within five years of the date planted and will have a maximum density and foliage. Dead or diseased vegetation shall be replaced at the next appropriate planting time.

(2) All operations, equipment, junk, and/or inoperative motor vehicles shall be kept within the confines of the fence at all times unless in motion by transport to or from the site.

(D) Penalty. Violation of this Section shall be subject only to monetary fines and injunctive relief as provided in §91.99 herein. A violation of this Section shall not be punishable as a criminal offense pursuant to N.C.G.S. §153A-123(b1).

§ 91.23 MAINTENANCE.

(A) All junkyards shall be maintained to protect the public from health nuisances and safety hazards.

(B) The County Health Department may inspect each junkyard to determine that no vectors are present. Should vectors be identified, the owner/operator/maintainer shall submit satisfactory evidence to the Health Department and Planning Department that vectors have been eliminated.

(C) Failure to comply with this section may result in revocation of permit, as well as other penalties and remedies for violation as provided for in §§ 91.27 and 91.99(B). Violation of this Section shall be subject only to monetary fines and injunctive relief as provided in §91.99 herein. A violation of this Section shall not be punishable as a criminal offense pursuant to N.C.G.S. §153A-123(b1).

§ 91.24 REGISTRATION OF PREEXISTING JUNKYARDS.

(A) All owners, operators, or maintainers of automobile graveyards or junkyards existing at the effective date of this subchapter shall register same with the county within a period of 180 days beginning with the effective date of this subchapter. All existing automobile graveyards or junkyards that have not been registered within 180 days shall be in violation of the provisions of this subchapter.

(B) Registration shall be accomplished by acquiring a permit and paying a permit fee of $20. The Ordinance Administrator shall provide the permit form. A junkyard plan prepared by the owner or operator shall be submitted as part of the junkyard registration. The plan shall indicate setbacks, location of public rights-of-way, all proposed structures, all structures within 300 feet of junkyard, driveways, entrances, fencing, screening, types of fencing, types of screening, dimensions of junkyard, gross acreage, owner(s)' name(s), and address(es). Submission of information shall establish preexisting conditions. All permit requirements of § 91.26 shall be met. The plan may be drawn at either one inch = 50 feet, one inch = 100 feet, one inch = 200 feet, one inch = 400 feet scale or freehand with corners identified by the owner on the junkyard site and referenced on the plan. Three copies shall be submitted, one of which shall be on reproducible material.

(C) Penalty. Violation of this Section shall be subject only to monetary fines and injunctive relief as provided in §91.99 herein. A violation of this Section shall not be punishable as a criminal offense pursuant to N.C.G.S. §153A-123(b1).

§ 91.25 NONCONFORMING EXISTING JUNKYARDS.

All existing junkyards at the effective date of this subchapter, registered in accordance with the § 91.24, shall be granted a compliance period of 24 months from the effective date of registration to conform to these provisions. Thereafter same shall be in violation of this subchapter. Any violation of this Section shall be subject only to monetary fines and injunctive relief as provided in §91.99 herein.
§ 91.26 PERMIT REQUIRED FOR JUNKYARDS.

(A) No person or entity shall establish, operate, or maintain a junkyard without obtaining a permit. The permit shall only be issued upon the person seeking the permit submitting a statement, under oath, that the existing or proposed junkyard does not violate any of the provisions of this subchapter. The permit shall be valid until revoked for the nonconformance with this subchapter. Application for the permit shall be made to the administrator of the ordinance, on the forms as the Ordinance Administrator shall prescribe. A junkyard plan prepared by the applicant shall be submitted as part of the junkyard permit.

(B) The plan shall indicate setbacks, location of public rights-of-way, all proposed structures, all structures within 300 feet of junkyard, driveways, entrances, fencing, screening, types of fencing, types of screening, dimensions of junkyard, gross acreage, owner(s) name(s), and address(es). The plan shall be on 18-inch by 24-inch sheets at either one inch = 50 feet, one inch = 100 feet, one inch = 200 feet, or one inch = 400 feet scale. Three copies shall be submitted, one of which shall be on reproducible material.

(C) The fees for the junkyard permits issued under this section shall not exceed a $20 initial fee.

(D) Any new expansion of a junkyard shall require a permit and shall be permitted in accordance with this section as a new establishment.

(E) A rejected permit may be resubmitted within ten days within the date of rejection without incurring an additional permit fee.

(F) Penalty. If a person or entity fails to obtain a permit as required under this Section, then said person or entity shall be subject only to monetary fines and injunctive relief as provided in §91.99 herein. A violation of this Section shall not be punishable as a criminal offense pursuant to N.C.G.S. §153A-123(b1).

§ 91.27 ENFORCEMENT.

(A) The Ordinance Administrator shall enforce this subchapter. He or she may call upon other agencies as necessary to assist in enforcement of this subchapter.

(B) In addition, whenever the Administrator receives a complaint alleging a violation, he or she shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

(C) The owner, tenant, or occupant of any building or land or part thereof and agent or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this subchapter may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

(D) The following procedure shall apply upon discovery of a violation under this subchapter.

(1) If the Administrator finds that any provision of this subchapter is being violated, he or she shall send a warning citation to the person responsible for the violation, indicating the nature of the violation and ordering the action necessary to correct it.

(2) A warning citation shall be issued by the Ordinance Administrator giving the violator ten days to correct the violation. The violator may submit to the Ordinance Administrator a written request for extension of the order's specified time limit for correction of the violation. On determining that the request contains enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Ordinance Administrator shall issue an order to cease and desist from the violation.
Administrator may extend the time limit as reasonably necessary to allow timely correction of the violation.

(3) The warning citation shall establish the facts and state what action the Administrator intends to take if the violation is not corrected. Furthermore, the violator shall be informed of the method of appeal.

(4) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this subchapter or pose a danger to the public health, safety, or welfare, the Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in this section.

(Ord. passed 1-8-1990; Ord. passed 10-21-2002; Ord. passed 6-6-2014) Penalty, see § 91.99

ABANDONED STRUCTURES

§ 91.35 PURPOSE; INTENT.

It is hereby found that there exists within the county abandoned structures which the Board of Commissioners find to be hazardous to the health, safety and welfare of the residents of the county due to the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities. Therefore, pursuant to the authority granted by N.C.G.S. § 160D-1201(b) 160A-441, it is the intent of this subchapter to provide for the repair, closing or demolition of any abandoned structures in accordance with the same provisions and procedures as are set forth by law for the repair, closing or demolition of dwellings unfit for human habitation.

Statutory reference:
Minimum housing standards; authority, see N.C.G.S. § 160D-1201(b) 160A-441

§ 91.38 STANDARDS FOR ENFORCEMENT.

(A) All residential and commercial structures within the county shall be deemed in violation of this subchapter whenever the structure constitutes a hazard to the health, safety or welfare of the citizens as a result of:

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

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

(1) Holes or cracks in the structure's floors, walls, ceilings or roof which might attract or admit rodents or insects, or become breeding places for rodents and insects;
(2) The collection of garbage or rubbish in or near the structure which might attract rodents and insects, or become breeding places for rodents and insects;
(3) Violations of the current editions of the State Building Code, the National Electric Code, the State Plumbing Code or the State Fire Prevention Code which constitutes a fire hazard in the structure as adopted;
(4) The collection of garbage, rubbish or combustible material which constitutes a fire hazard in the structure;
(5) The use of the structure or nearby grounds or facilities by children as a play area;
(6) Violations of the State Building Code which might result in danger to children using the structure or nearby grounds or facilities as a play area; and

(7) Repeated use of the structure by transients and vagrants, in the absence of sanitary facilities, for living, sleeping, cooking or eating.

(C) **Penalty.** Violation of this Section shall be subject to monetary fines and injunctive relief as provided in §91.99 herein. A violation of this Section shall not be punishable as a criminal offense pursuant to N.C.G.S. §153A-123(b1).

Penalty, see UDO § 11.2

§ 91.39 **PROCEDURE FOR ENFORCEMENT.**

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

(B) **Procedure after hearing.**

(1) After the notice and hearing, the County Manager or designee shall state in writing the officer's determination whether the structure violates this subchapter.

(2) If the County Manager or designee determines that the dwelling is in violation, the officer shall state in writing the officer's findings of fact to support the determination, and shall issue and cause to be served upon the owner, and any other parties in interest thereof, an order directing and requiring the owner to either repair, alter and improve the structure or else remove or demolish the same within a specified period of time not to exceed 90 days.

(C) **Failure to comply with order.**

(1) **In personam remedy.** If the owner of a structure shall fail to comply with an order of the County Manager or designee within the time specified therein, the County Manager or designee may submit to the Board of Commissioners at its next regular meeting a resolution directing the County Attorney to petition the Superior Court for an order directing the owner, and any other parties in interest, to comply with the order of the County Manager or designee, as authorized by G.S. § 160A-446(g) N.C.G.S. §160D-1208(c).

(2) **In rem remedy.** After failure of an owner, and any other parties in interest, of a structure to comply with an order of the County Manager or designee within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in division (C)(1) above, the County Manager or designee shall submit to the Board of Commissioners a resolution ordering the County Manager or designee to cause the structure to be removed or demolished, as provided in the original order of the County Manager or designee, and pending the removal or demolition, to placard the dwelling as provided by G.S. § 160A-443 N.C.G.S. §160D-1203.

(3) **Enforcement and penalties.** Violation of this Section shall be subject to monetary fines and injunctive relief as provided in §91.99 herein. A violation of this Section shall not be punishable as a criminal offense pursuant to N.C.G.S. §153A-123(b1).
(4) Petition to Superior Court by owner. Any person aggrieved by an order issued by the County Manager or designee shall have the right, within 30 days after issuance of the order to petition the Superior Court for a temporary injunction restraining the County Manager or designee pending a final disposition of the cause, as provided by G.S. § 160A-446(f) N.C.G.S. §160D-1208(d).

§ 91.41 IN REM ACTION BY COUNTY MANAGER OR DESIGNEE; PLACARDING.

(A) After failure of an owner of a structure to comply with an order of the County Manager or designee issued pursuant to the provisions of this subchapter, and upon adoption by the Board of Commissioners of a resolution authorizing and directing the officer to do so, as provided by G.S. §160A-443(5) N.C.G.S. §160D-1203(5) and § 91.39 of this code, the County Manager or designee shall proceed to cause the structure either to be repaired or else removed or demolished, as directed by the resolution of the Board of County Commissioners and shall cause to be posted on the main entrance of the structure a placard prohibiting the use or occupation of the structure. Use or occupation of a building so posted shall constitute a misdemeanor.

(B) Each resolution shall be recorded in the office of the Register of Deeds of the county and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. §160A-443(5) N.C.G.S. §160D-1203(5).

§ 91.42 COSTS OF LIEN ON PREMISES.

(A) As provided by G.S. §160A-443(6) N.C.G.S. §160D-1203(7), the amount of the cost of any removal or demolition caused to be made or done by the inspector pursuant to this subchapter shall be a lien against the real property upon which the cost was incurred.

(B) The lien shall be filed, have the same priority and be enforced and the costs collected as provided by N.C.G.S. § 160A, Article 10 (§ 160A-216 et seq.).

§ 91.44 DEMOLITION PERMIT AND BOND.

A demolition permit shall be required for the removal of any structure. Any application for demolition of a structure 2,000 square feet or greater in size shall be accompanied by a demolition plan and either the signature of the property owner or of the County Manager. Such demolition plan shall be binding upon subsequent property owners and shall require the following:

(A) Identification of all above and below ground structures on the site including any wells or septic tanks and the applicant’s plan for their future use or closure;

(B) Any plans by the applicant for on-site burning and/or burial of any materials;

(C) Removal of all mowing obstructions, construction debris and materials and removal of all structural foundations unless the applicant demonstrates that the foundation is to be reused in the redevelopment of the property with such redevelopment beginning within six months of the issuance of the demolition permit;

(D) Removal of such materials within one month of the removal of the structure(s);

(E) Upon demolition, sewer line must be satisfactorily capped off by the property owner and/or contractor and inspected by the County of Lincoln ton Public Works Department or Lincoln County Environmental Health;

(F) Paved parking areas may be retained on site, although the property owner is required to maintain such areas so that they do not detract from the overall appearance of the property;

(G) Upon demolition, the lot where the demolition has occurred shall be sodded or hydro-seeded with a silt fence installed to prevent and eliminate erosion. This silt fence must be maintained in place until the lot has a vegetative cover of at least 70%. Any resulting holes (e.g. from basement levels) must be filled and returned to normal grade. The requirement for hydro-seeding or sodding may be waived at the discretion of the County Manager's satisfaction if the applicant demonstrates to the County
Manager's satisfaction that redevelopment of the property will begin within six months of the issuance of the demolition permit;

(H) Deadline for completion of the demolition;

(I) A description of the applicant's plans for ongoing post-demolition maintenance of the lot;

(J) Proof of applicant's having obtained all necessary permits from the North Carolina Department of Environment and Natural Resources and/or the North Carolina Department of Health and Human Services or Lincoln County Natural Resources;

(K) All applications for demolition permits shall be accompanied by payment of a secure bond in the form of cash, certified check, cashier's check or surety bond based on the size of the structure(s) to be demolished as noted below. Any company that writes the surety bond must be licensed by the State of North Carolina and have been rated A or higher by A. M. Best Company. Any bond in the form of cash or certified/cashier's check will be refunded within 30 days upon satisfactory completion and inspection of the subject property by the Zoning Administrator.

Secure Bond Amount

<table>
<thead>
<tr>
<th>Structure Details</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Structures between 2,000 and 2,500 square feet</td>
<td>$500</td>
</tr>
<tr>
<td>Structures greater than 2,500 and 3,000 square feet</td>
<td>$1,000</td>
</tr>
<tr>
<td>Structures greater than 3,000 square feet</td>
<td>$4 per square foot</td>
</tr>
</tbody>
</table>

(L) The maximum secure bond amount required for any demolition, regardless of the size of the structure shall not exceed $1,000,000.

(M) Structures on sites owned by local, state and federal governmental entities are exempt from this provision.

(N) Any demolition work to be performed as part of a new construction / redevelopment project and included as a part of the scope of the building permit for the new construction shall not be required to provide a secure bond separate and apart from the new building permit.

(O) Failure on the part of the property owner or his or her contractor to completely demolish, remove and clear the premises as stipulated in the demolition plan after 30 days’ notice by the County Manager shall be cause for forfeiture of the bond.

(P) Failure to comply with the provisions of this section shall subject the violator to penalties, enforcement and abatement as provided in the Lincoln County Unified Development Ordinance.

Violation of this Section shall be subject to monetary fines and injunctive relief as provided in §91.99 herein. A violation of this Section shall not be punishable as a criminal offense pursuant to N.C.G.S. §153A-123(b1).

Penalty, see UDO § 11.2

§ 91.99 PENALTY.

(A) Subject to the provisions of § 91.03, violations of §§ 91.01 through 91.04 may be enforced by any one or more of the remedies authorized by G.S. § 153A-123, including, but not limited to, the following:

(1) The Sheriff's Department may issue a citation which subjects the offender to a civil penalty of the greater of $500 or the maximum allowed by state law to be recovered by the county in a civil action in the nature of debt if the offender does not pay the penalty within 20 days after being cited for a violation;
(2) A civil action seeking an injunction and order of abatement may be directed toward any person creating or allowing the creation of any unlawful noise, including the owner or person otherwise having actual or legal control of the premises from which it emanates; and/or

(3) Any criminal action as set forth as set forth therein, misdemeanor warrant may be issued either immediately or upon the issuance of a citation, and the violator's failure to pay the same. A violation of this subchapter upon the issuance of a misdemeanor warrant shall be punishable under G.S. § 14-4 by a maximum sentence of 30 days and/or a maximum fine of $500 or the maximum allowed by state law.

(B) Penalties and remedies for violations of §§ 91.15 through 91.27 shall be as follows.

(1) Violations of the provisions of §§ 91.15 through 91.27 or failure to comply with any of their requirements, including violations of any conditions and safeguards established, shall be enforced as set forth therein. constitute a misdemeanor, punishable by a fine of up to $50 or a maximum 30 days' imprisonment as provided in G.S. § 14-4.

(2) Any act constituting a violation of the provisions of §§ 91.15 through 91.27 or a failure to comply with any of their requirements shall also subject the offender to a civil penalty. Each day of violation shall be considered a separate offense, provided that the violation is not corrected within 20 days after notice of the violation is given. Subsequent citations for the same violation may be issued by the Ordinance Administrator unless the violator has appealed the actions of the Ordinance Administrator through the Board of Adjustment.

(a) The following penalties are hereby established:

<table>
<thead>
<tr>
<th>Penalty Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Warning citation</td>
<td>Correct violation within 10 days</td>
</tr>
<tr>
<td>First citation</td>
<td>$25 (correct violation within 10 days)</td>
</tr>
<tr>
<td>Second and subsequent citations</td>
<td>$50 per day</td>
</tr>
<tr>
<td>for same offense</td>
<td></td>
</tr>
</tbody>
</table>

(b) If the offender fails to pay the civil penalties within five days after being cited, the penalties may be recovered by the county in a civil action in the nature of a debt.

(3) This subchapter may also be enforced by any appropriate equitable action. The remedy may include court order of abatement as part of a judgement in the cause. The abatement order may include removal of junk from illegal junkyards and other actions required to make the property comply with the provisions of this subchapter at the owner's expense.

(4) Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce §§ 91.15 through 91.27. In addition to the foregoing enforcement provisions, §§ 91.15 through 91.27 may be enforced by any remedy provided in G.S. § 153A-123, including, but not limited to, all appropriate equitable remedies provided in G.S. § 153A-123(d) and particularly the remedy of injunction and order of abatement as allowed in G.S. § 153A-123(e). Sections 91.15 through 91.27 specifically provide that each day's continuing violation may be a separate and distinct offense.

(Ord. passed - ; Ord. passed 1-8-1990; Ord. passed 10-21-2002; Ord. passed 12-4-2006; Ord. passed 6-6-2014)

Section 10. Chapter 92 of the Lincoln County Code of Ordinances is amended as follows:

ANIMAL CONTROL

§ 92.05 PROGRAM OF ANIMAL CONTROL.
(A) **Director of Animal Services.** The Director of Animal Services shall serve as the chief administrator of this chapter and the program of Animal Control.

(B) **Animal Services Officers.** Animal Services Officers are appointed through authority of N.C.G.S. § 67-30, Appointment of animal control officers authorized; salary, etc. The duties and powers of Animal Services Officers include enforcement of this chapter, and other applicable state, and local animal laws.

(C) **Animal cruelty investigators.** Animal cruelty investigators shall be appointed by the Board of Commissioners and shall have the power ascribed to them per N.C.G.S. § 19-45, Appointment of animal cruelty investigators; terms of office; removal; badge; oath; bond.

(D) **Interference.** Interference with the Director of Animal Services or Animal Services Officers in any aspect of the enforcement of this chapter shall constitute a violation of this chapter.

(E) **Penalty.** Any person who violates a provision of division (D) of this section shall be subject to the penalties listed in § 92.99. Violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in §10.99 herein.

(Ord. passed 6-21-2021)

§ 92.06 ANIMAL CRUELTY.

(A) It shall be unlawful and a violation of this chapter for any owner, or other person to fail to comply with the laws of North Carolina relating to animal cruelty including, but not limited to:

1. N.C.G.S. § 14-360, Cruelty to animals; construction of section;
2. N.C.G.S., § 14-361, Instigating or promoting cruelty to animals;
3. N.C.G.S. § 14-361.1, Abandonment of animals;
4. N.C.G.S. § 14-363, Conveying animals in a cruel manner;
5. N.C.G.S. § 14-363.1, Living baby chicks or other fowl, or rabbits under eight weeks of age; disposing of as pets or novelties forbidden;
6. N.C.G.S. § 14-362.3, Restraining dogs in a cruel manner;
7. N.C.G.S. § 14-363.3, Confinement of animals in motor vehicles;
8. N.C.G.S. § 14-366, Molesting or injuring livestock;
9. N.C.G.S. § 14-362, Cockfighting;
10. N.C.G.S. § 14-362.1, Animal fights and baiting, other than cockfights, dog fights and dog baiting;
11. N.C.G.S. § 14-362.2, Dog fighting and baiting;
12. N.C.G.S. § 14-163, Poisoning livestock; and
13. N.C.G.S. § 14-401, Putting poisonous foodstuffs, antifreeze, etc., prohibited.

(B) It shall be unlawful and a violation of this chapter for any owner, or other person to fail to comply with adequate standards of animal care as defined by this chapter through statutory power given in N.C.G.S. § 153A-127, Abuse of animals. Adequate standards of care are to include adequate food, water, shelter, environment and vet care as defined above in § 92.03.

(C) **Penalty.** Any person who violates a provision of this section shall be subject to the penalties listed in § 92.99. Violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in §10.99 herein.

(Ord. passed 6-21-2021)
§ 92.07 TETHERING.

(A) Tethering of dogs shall be permitted when:
(1) The tether is a minimum of 12 feet;
(2) If attached to a pulley or trolley system the tether is at least 15 feet long and no more than seven feet above the ground;
(3) The tether is attached to a properly fitting collar or harness (not a choke, prong or pinch collar);
(4) The tether has a swivel on at least one end;
(5) The tether is an appropriate size and weight for the dog; and
(6) Only one dog is attached to a single tether.

(B) Tethering of dogs shall be prohibited if:
(1) Any of the above conditions are violated;
(2) The tether allows the dog to cross the property line or onto public property;
(3) The dog is tethered in a manner that is likely to cause injury, strangulation, or entanglement thereto;
(4) The dog is sick/injured, pregnant or nursing, or under six months; or
(5) Any other condition detrimental to the dog exists as determined by the Animal Services Officer.

(C) Exceptions. Notwithstanding the foregoing, exceptions may apply at the discretion of the Animal Services Officer for tethering that is non-permanent and being used as a part of a legal activity with direct supervision from an owner.

(D) Penalty. Any person who violates a provision of this section shall be subject to the penalties listed in § 92.99. Violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in §10.99 herein.

(Ord. passed 6-21-2021)

§ 92.08 LEASH LAW.

(A) Prior jurisdiction. Dogs at large shall not be permitted at any time in the following subdivisions, which were adopted under previous ordinances: Anderson Woods, Arden Oaks, Brookwood Acres, Cherry Lane, Cherry Pt., City of Lincolnton, Clearbrook, Country Club Apartments, Country Valley, Eastwood, Goodsons Place, Grandview Farms, Green Acres, Hidden Valley, Hill Crest, Hoffman Acres, Hunter's Bluff, Knottingham Forest, Lake Hill Trailer Park, Lincoln Park, Meadowbrook, North Hill Deerwood Trails, Sherrill Ridge, Sifford Acres, Stoney Creek Acres, West Bay, Westport Peninsula, Westport Subdivision, Westward Trail, Whispering Pines, Windsor Forest, and Worthington Park.

(B) New jurisdiction. Each additional jurisdiction desiring to subject itself and its properties to the leash law provisions shall meet the following criteria and be acted upon as follows:
(1) It must be a subdivision platted and recorded with the County Register of Deeds or an approved mobile home park; and
(2) A majority of the property owners residing in a platted and recorded subdivision, condominium or mobile home park must sign a petition agreeing to the leash restrictions.

(C) Subdivisions meeting new criteria. The Board of Commissioners shall review the petition of the subdivision or mobile home park and, if the criteria are met, a public hearing shall be scheduled. Following the public hearing, action shall be taken on the petition. If approved, the subdivision shall be listed in this chapter.
(D) **Subdivisions desiring to opt out of leash law provisions.** Subdivisions desiring to remove a leash law from this chapter must meet the following criteria: 75% of property owners within the jurisdiction must sign a petition agreeing to remove the leash restrictions. The Board of Commissioners shall review the petition of the subdivision or mobile home park, and if the criteria are met, a public hearing shall be scheduled. Following the public hearing, action shall be taken on the petition. If approved, the subdivision shall be removed from listing in this chapter.

(E) **Penalty.** Any person who violates a provision of this section shall be subject to the penalties listed in § 92.99. Violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in §10.99 herein.

(Ord. passed 6-21-2021)

§ 92.09 **NUISANCE.**

(A) **Nuisance acts.** It shall be unlawful for an owner to permit an animal or animals to create a public nuisance, or to maintain a public nuisance created by an animal or animals. Nuisance means any act of an animal that disturbs rights and privileges common to the public or enjoyment of private property. The commission of a nuisance act on more than one occasion shall be evidence of a nuisance. A nuisance act includes but is not limited to:

1. Continuously or frequently roams or is found on the property of another person;
2. Turns over garbage containers or removes garbage from a container;
3. Damages gardens, foliage or other real personal property of another person;
4. Eliminates on private property without the permission of the owner;
5. Walks on or sleeps on automobiles of another person;
6. Is maintained in an unsanitary condition so as to be offensive to sight or smell;
7. Is not confined to a building or secure enclosure while in estrus;
8. Is diseased or dangerous to the health of the public;
9. Chases, snaps at, attacks, or otherwise molests pedestrians, cyclists, motor vehicle passengers, farm stock, or domestic animals;
10. Is housed or restrained less than five feet from a public street, road or sidewalk, and in the discretion of the Animal Control Officer, poses a threat to the general safety, health and welfare of the general public; or
11. Habitually loiters on school grounds or county recreation property.

(B) **Nuisance complaints.** Any person wishing to file an animal nuisance complaint must fill out a nuisance/complaint form. Before initiating a civil or criminal proceeding pursuant to this chapter or any state statute, the Animal Services Director or his or her designee shall have the option of requesting the complaining party to sign a sworn statement of the alleged offense and to require the cooperation of the complaining party in court appearances arising from the complaint. Nothing contained in this chapter shall obligate the county, or its Animal Services Director, to pursue civil or criminal proceedings hereunder, and nothing shall prevent a private citizen from pursuing a civil action for nuisance pursuant to common law or this chapter.

(C) **Penalty.** Any person who violates a provision of this section shall be subject to the penalties listed in § 92.99. Violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in §10.99 herein.

(Ord. passed 6-21-2021)
§ 92.10 RABIES CONTROL.

The Animal Services Director or designee shall enforce and carry out all rabies control laws of the state and this chapter, and shall work with the Local Health Director to investigate and help control rabies cases in accordance with Chapter 130A, Rabies (Exhibit I).

(A) Rabies requirements. It shall be unlawful and a violation of this chapter for any owner, or other person to fail to comply with the following laws of North Carolina relating to the control of rabies:

1. Vaccination of animals for rabies, N.C.G.S. § 130A-185, Vaccination required;
2. Displaying rabies tags, N.C.G.S. § 130A-190, Rabies vaccination tags;
   a. Cats and ferrets exempt;
3. Confinement of biting animals, N.C.G.S. § 130A-196, Notice and confinement of biting animals;
4. Post exposure management, N.C.G.S. § 130A-197, Management of dogs, cats and ferrets exposed to rabies; and

(B) Penalty. Any person who violates a provision of this section shall be subject to the penalties listed in § 92.99. Violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in §10.99 herein.

(Ord. passed 6-21-2021)

§ 92.12 EXOTIC ANIMALS.

(A) It shall be unlawful for any person to own or display wild or exotic animals on any public or private property unless properly registered.

(B) Registration of exotic animals. A current registration shall be maintained by the Animal Services Division for every exotic animal. The owner of the exotic animal is responsible for ensuring that the exotic animal is registered. Registrations must include the name and address of the owner, identifying information concerning the exotic animal, and any other information the Animal Services Division reasonably deems necessary. The owner shall register the exotic animal annually with the Animal Services Division during the month of January.

(C) Penalties. Any person who violates a provision of this section shall be subject to the penalties listed in § 92.99. Violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in §10.99 herein.

(Ord. passed 6-21-2021)

§ 92.13 DISPOSITION OF DEAD ANIMALS.

Animal Services will investigate allegations of improper disposal of animals and will coordinate with the County Health Department for concerns on public health and safety. The County Health Department will provide consultation for disposal efforts to the responsible party. Animal Services may assess penalties to the responsible party if the animal is not properly disposed of.

(A) Deceased domestic animals. The owner of a domesticated animal that dies from any cause must bury the animal in accordance with N.C.G.S. § 106-403, Disposition of dead domesticated animals.

(B) Deceased animals in the road. The Department of Transportation shall remove dead animals from the road pursuant to N.C.G.S. § 136-18, Powers of Department of Transportation.

(C) Deceased animals when owner unknown. The Animal Services Officer will make every effort to locate the owner of the dead animal, and cause him/her to dispose of the animal in compliance with
N.C.G.S. § 106-403, Disposition of dead domesticated animals. When the animal's owner cannot be determined, the owner of the land where the animal is located will be responsible for the disposal of the dead animal.

(D) Penalty. Any person who violates a provision of this section shall be subject to the penalties listed in § 92.99. Violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in §10.99 herein.

(Ord. passed 6-21-2021)

Section 11. Chapter 93 of the Lincoln County Code of Ordinances is amended as follows:

§ 93.04 NUMBERING SYSTEM.

(A) All roads, whether public or private, shall be numbered uniformly and consecutively along the roadway centerline. Numbers shall be assigned along the entirety of all roads.

(B) The origin point of the numbering system shall be located at the Lincoln County Courthouse Building, where the Old U.S. Highway 321 and North Carolina Highway 27 radiate from the Courthouse Square.

(C) The Old U.S. Highway 321 is hereby designated as the north/south baseline and the North Carolina Highways 27 and 73 are designated as the east/west baseline for the numbering system.

(D) All roads having a north/south orientation will be numbered from the east/west baseline. All roads having an east/west orientation will be numbered from the north/south baseline.

(E) All roads, both public and private, shall be named and numbered if three or more addressable structures, including mobile homes, are located on and accessed by them. At the discretion of the Ordinance Administrator roads with two addressable structures may be named and numbered upon request by the residents along the road.

(F) (1) The initial number for a road shall be determined by measuring the perpendicular distance in feet between the appropriate baseline (division (C) above) and the nearest terminus of the road, dividing this distance by 25, rounding to the nearest integer, multiplying by two, and adding 100 to this product:

   (a) \[ I = (2 \times \text{INT((1.5D - 0.0000065D^2)/20})) + 100; \]  
   (b) Where:
      1. \( D \) = perpendicular distance to appropriate baseline;
      2. \( I \) = initial number for the road; and
      3. \( \text{INT}(D/20) \) = round to the nearest integer.

   (2) The Ordinance Administrator shall have the authority to adjust the initial number for a road to prevent the duplication of addresses along a mail delivery route or within a postal district. The Ordinance Administrator shall also have the authority to make adjustments from time to time as needed in the formula stated in this section.

(G) A pair of natural numbers shall be assigned for each 20 feet of roadway centerline. Odd-natural numbers shall be assigned to the left side of the road in the direction of increasing numbers (movement away from the baseline or origin). Even-natural numbers shall be assigned to the right side of the road in the direction of increase.

(H) One block shall be 1,000 feet in length along the roadway centerline (50 twenty-foot sections), and shall consist of 100 consecutive numbers.

(I) For numbering purposes, road orientation (north/south or east/west) shall be based on the overall direction of gain between the terminus points of the road. If the road is oriented at or near 45 degrees
to the baselines, the Ordinance Administrator shall determine the orientation of the roadway in accordance with his or her best judgment.

(J) The county numbering system shall take precedence over all other systems, regardless of originating jurisdiction or other factors. Notwithstanding the foregoing, however, this division (J) shall not apply to numbering done by the City of Lincolnton within its jurisdiction.

(Ord. passed 4-16-2001; Ord. 2010-18, passed 12-6-2010) Penalty, see § 93.99

§ 93.05 ROAD NAMING.

(A) The Ordinance Administrator shall have sole authority to approve road names for new development within the county, subject to the requirements herein.

(B) Names for proposed or newly constructed roads may be submitted by the owner or developer for approval by the Ordinance Administrator. However, in the event that a proposed or newly constructed road crosses over property not owned by the submitting owner or developer, then a petition to name the proposed road must be submitted in accordance with the provisions as set forth in § 93.10 of this chapter.

(C) The Ordinance Administrator shall maintain a database of existing road names, such that duplicate, sound-alike, and deceptively similar road names are neither assigned nor approved.

(D) Road names shall be chosen that relate to the scale, location, and history of a project area.

(E) Road names shall be pleasant sounding, appropriate, easy to read, and should add pride to home ownership.

(F) Large developments should use a single, significant category for road naming; small developments should use the same category within the immediate vicinity, which helps establish location identity.

(G) Numerical names; alphabetical names; and frivolous, complicated, or undesirable names are unacceptable. Compound names shall be used rarely and shall not be used for short roads.

(H) The following road name suffixes are allowed: Avenue (AVE), Boulevard (BLVD), Circle (CIR), Court (CT), Drive (DR), Highway (HWY), Lane (LN), Loop (LOOP), Parkway (PKY), Place (PL), Road (RD), Street (ST), Trail (TRL), and Way(WAY). Private roads shall be assigned the suffix Trail, Lane, or Way. All other suffixes shall be reserved for public roads. If a suffix is used which is not listed herein, the standard applied for the suffix will be obtained from Appendix C of the Postal Addressing Standards Publication 28, November 1997, as revised.

(I) Roads that cross either baseline shall bear different names on each side of the baseline to avoid duplicating addresses along that road, and to preserve the integrity of the county's numbering system.

(J) Each road shall bear the same name and uniform numbering as outlined herein, along the entirety of the road. Exclusions from this standard shall include the following:

(1) Split routes, also known as "dog-leg" or offset intersections. Split routes shall be treated as separate roads with different names and numbering to preserve the integrity and continuity of the numbering system; and

(2) Impasses or sections of a road that are impassable. Different names and numbering ranges shall be assigned to each portion of the road on either side of the impasse to preserve the integrity and continuity of the numbering system and to prevent efforts in the dispatch of emergency services.

(K) Existing roads that are extended shall carry the same road name and numbering order as the road from which they are extended. An example of this would be a road extended through a cul-de-sac into a new, existing, or additional phase of a subdivision. Extensions of roads that change the character of the road (for example, changing a dead end to a connecting street or road) shall be the responsibility of the developer making the extension, and the developer shall bear all costs associated with any changes that may be necessitated by the extension.

(Ord. passed 4-16-2001; Ord. 2010-18, passed 12-6-2010) Penalty, see § 93.99
§ 93.06 ADDRESSING.

(A) Each structure shall be assigned a structure number based on the number of the appropriate segment of roadway centerline. The structure number shall be determined by the line perpendicular to the road centerline, which intersects the main access or entrance to the structure. The number of the centerline segment at the point of perpendicular intersection shall be the number of the structure.

(B) If development on a private road exceeds the minimum structure regulation (see § 93.04(E)), the road shall be named and numbered and structures re-addressed according to the requirements herein. In such event, the petition process (as set forth in § 93.10) shall be followed.

(C) One structure number shall be assigned to each structure whose units share a common building entrance or parking area.

(1) Each unit within the structure shall be assigned a unit designator such as "suite."

(2) Allowed unit designators include apartment numbers for apartments, and numbers for commercial buildings.

(3) The unit designator shall be a number, and shall not include alphabetic characters.

(D) A unique structure number shall be assigned to each unit within a structure which provides individual driveway access to each unit.

(E) Mobile homes shall be assigned individual street addresses in accordance with the requirements herein. No unit designator shall be allowed in the address of mobile homes.

(F) Unit designators shall be assigned in a logical manner, with increasing unit numbers corresponding to increasing road centerline numbering as much as possible.

(G) The road name shall be the name of the road from which a structure is numbered.

(Ord. passed 4-16-2001; Ord. 2010-18, passed 12-6-2010) Penalty, see § 93.99

§ 93.07 POSTING REQUIREMENTS.

(A) Within 90 days after written notification by the Ordinance Administrator of the assignment of or change of structure number for any structure, the owner of the structure shall post the assigned structure number in compliance with the requirements herein.

(B) All structure numbers shall be constructed of a durable material. The color shall contrast with the color scheme of the structure and, if mounted on glass, shall contrast with the background and be clearly visible.

(C) The minimum number size for a typical single family or duplex residential structure shall be three inches in height.

(D) The minimum number size for all other structures shall be six inches in height.

(E) In all cases, a number size larger than the minimum size may be required in any instance where the minimum size does not provide adequate identification, as deemed appropriate by the Ordinance Administrator.

(F) For single-family residential or duplex structures, the structure number shall be posted and maintained within a three-foot perimeter of the front entrance of the structure, in a location visible and readable from the road. As an alternative, the structure number may be posted on the mailbox for the residence as long as the mailbox is located on the same side of the road as the residence and as long as the mailbox is a standalone box and is not in a cluster of mailboxes. In such instance, the structure number must be constructed of a reflective material and must be a minimum of three inches in height.

(G) For all other structures, the structure number shall be posted on a building face most readily visible from the road from which the number is assigned. Unit designators shall be posted at each unit within a three-foot perimeter of the front entrance of the unit.

(H) In the event that a structure or its posted number is not visible from the road from which its number is assigned, as determined by the Ordinance Administrator, the assigned structure number shall
also be posted on the property adjacent to the road at or near every driveway or access to the structure, as deemed appropriate by the Ordinance Administrator. Again, as an alternative the structure number may be posted on the mailbox for the residence as long as the mailbox is located on the same side of the road as the residence and as long as the mailbox is a standalone box and is not in a cluster of mailboxes. In such instance, the structure number must be constructed of a reflective material and must be a minimum of three inches in height.

(I) Following the posting of the assigned number as required herein, the owner shall maintain the structure number at all times in compliance with the requirements of this section. Structure numbers and unit designators, as viewed from the public road, shall not be obstructed from view by landscaping, shrubs, vegetation, saw doors, canopies, or any other plant or structure.

(J) Penalty. Violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in §93.99 herein.

(Ord. passed 4-16-2001; Ord. 2010-18, passed 12-6-2010) Penalty, see § 93.99

§ 93.09 ROAD NAME SIGNS.

(A) For all roads (whether public or private) to which this chapter applies, road name signs shall be installed at all intersections in conformance with the standards and policies of the county, regardless of other existing route markings.

(B) All road name signs shall be installed and maintained by the county staff.

(C) Developers may install custom road name signs as long as such signs meet the criteria of this chapter and receive the prior approval of the Ordinance Administrator. The developer shall bear all costs of maintenance of the custom signs and all costs of any replacement, change, or modification of the signs.

(D) Penalty. Violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in §93.99 herein.

(Ord. passed 4-16-2001; Ord. 2010-18, passed 12-6-2010) Penalty, see § 93.99

Section 12. Chapter 94 of the Lincoln County Code of Ordinances is amended as follows:

CHAPTER 94: HAZARDOUS WASTES REPEALED
§ 94.01 TITLE.
This chapter shall be known and may be cited as the "Lincoln County Hazardous Waste and/or Low-Level Radioactive Waste Management Ordinance."
(Ord. passed 9-15-1987)

§ 94.02 PURPOSE.
The purpose of this chapter is to:
(A) Regulate the location, operation, and care of hazardous and/or low-level radioactive waste management facilities dealing with the storage, transfer, treatment, or disposal of hazardous and/or low-level radioactive waste within the county;
(B) Assure that the best management practices are used in handling the hazardous and/or low-level radioactive waste;
(C) Assure that the hazardous and/or low-level radioactive waste is not placed into permanent or long-term storage in the county;
(D) Assure that the treatment of the hazardous and/or low-level radioactive waste, including reuse, recycling, neutralization, detoxification, and incineration, will be permitted with proper regulation;
(E) Assure treatment of hazardous and/or low-level radioactive waste by mass volume reduction must be accompanied by one of the above methods, listed in division (D) above, for the residual volume; and
(F) Assure that the hazardous and/or low-level radioactive waste does not undergo disposal in the county without being rendered nonhazardous by prior treatment.
(Ord. passed 9-15-1987)

§ 94.03 DEFINITIONS.
For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:
ACUTE HAZARDOUS WASTE. The same as defined in 40 C.F.R. pt. 261.
BEST AVAILABLE TECHNOLOGY. Waste management and treatment technology equal in performance to the best treatment technology available in the marketplace which serves to render the waste to its least harmful form and most reduced volume.
DISPOSAL. The discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous and/or low-level radioactive waste into or on any land so that the waste or any constituent thereof may enter the environment or be emitted into the air or discharge into any waters, including surface waters.
FACILITY. All land, structures, personnel, and equipment used for the treatment, storage of more than 90 days, or more than one month in the case of acute hazardous waste, and/or disposal of hazardous and/or low-level radioactive waste whether on-site or off-site.
GENERATOR. Any person, by site, whose act or process produces low-level radioactive waste as defined above, or hazardous waste identified or listed in 40 C.F.R. pt. 261.
HAZARDOUS and/OR LOW LEVEL RADIOACTIVE WASTE BOARD. The Lincoln County Waste Management Board as described in § 94.04.
HAZARDOUS WASTE. Solid or liquid waste, or a combination of solid and liquid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or

(2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.

LOW-LEVEL RADIOACTIVE WASTE. Radioactive waste not classified as high-level radioactive waste, spent nuclear fuel as defined by the U.S. Nuclear Regulatory Commission, transuranic waste, or by product material as defined in § IIE (2) of the Atomic Energy Act of 1954, as amended (68 Statute 922).

MANAGEMENT PRACTICES. Methods of systematic collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous and/or low-level radioactive wastes.

ON-SITE. The same as defined in 40 C.F.R. pt. 260.

PERSON. Any individual, corporation, partnership, firm/association, trust, estate, public or private institution, group, agency, or other entity, or any successor, subsidiary, or division thereof.

STORAGE. As containment for a period of over 90 days (or over one month in the case of acute hazardous waste) in such a manner as not to constitute disposal.

TREATMENT. Any method, technique, or process including neutralization, designed to change the physical, chemical or biological character or composition of any hazardous and/or low-level radioactive waste so as to neutralize the waste, or so as to render the waste nonhazardous; safer for transport, amenable for recovery, amenable for storage, or reduced in volume. The term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste or low-level radioactive waste so as to render it nonhazardous.

(Ord. passed 9-15-1987)

§ 94.04 HAZARDOUS AND/OR LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT BOARD.

(A) A County Hazardous and/or Low-Level Radioactive Waste Management Board shall be formed and shall be composed of 11 members. The Waste Board shall be constituted as follows:

(1) Two members from county government, the Health Director, or his or her designee, and the County Emergency Management Director;

(2) Four members to be appointed by the Board of Commissioners from the following categories: two from the public at large representing citizens involved in environmental matters, and two from industry; and

(3) Each of the five members of the Board of Commissioners shall select one citizen from his or her representative district.

(B) Each member shall serve a three-year term, with three of the initial Board members serving one-year terms, three members serving two-year terms, and the remaining three serving for three years so as to stagger the terms. The initial terms shall be set by the Board of Commissioners;

(C) The Chairperson of the Hazardous and/or Low-Level Radioactive Waste Board shall be selected by the Board on its first meeting;

(D) The Board shall meet at least twice a year but as often as necessary at some central location in the county. The staff of the Planning Department shall act as support staff for the Hazardous and/or Low-Level Radioactive Waste Board.

(E) A majority of the Board shall constitute a quorum for the transaction of business.

(F) The functions and powers of the Hazardous and/or Low-Level Radioactive Waste Board shall be as follows:
— (1) To review the county's waste management program and make recommendations to the Board of Commissioners on ways to improve the program;
— (2) To carry out the functions designated in this chapter, including, but not limited to, the application process (§ 94.06), recommending management practice orders (§ 94.11), approving certificates of need (§ 94.11), and provide information to the public;
— (3) To promote safety and health in the management of wastes;
— (4) To maintain contact with the State Waste Management Board and other bodies concerned with hazardous waste management;
— (5) To provide a forum for citizens and industry in the regulatory processes;
— (6) To keep itself informed about advances in the technology of hazardous waste and low-level radioactive waste management and to make recommendations to the Board of Commissioners about ways to keep its regulations and management practices in tune with the use of both best available technology and best management practices in the field of hazardous and/or low-level radioactive waste management; and
— (7) To review the practices of hazardous waste generators and low-level radioactive waste generators in the county not currently covered by federal and state regulations to determine if the county should require these generators to obtain permits for continued production and management of these wastes.

—(G) The members of the Hazardous and/or Low-Level Radioactive Waste Board shall be compensated at a rate to be determined by the Board of Commissioners and shall be provided with insurance against liability for any actions taken in performance of their duties.

(Ord. passed 9-15-1987)

§ 94.05 HAZARDOUS WASTE AND LOW-LEVEL RADIOACTIVE WASTE PERMIT REQUIRED.

—(A) No new proposed storage treatment, transfer, or disposal facility for hazardous waste or low-level radioactive waste shall be permitted to be located, erected, constructed, or otherwise established with the county prior to satisfactory compliance with the procedures set forth herein and prior to receiving a hazardous or low-level radioactive waste management permit as specified herein and prior to the satisfactory compliance with each and every condition as specified by the Board of Commissioners as designated herein.

—(B) No existing storage treatment, transfer, or disposal for hazardous waste and/or low-level radioactive waste shall be permitted to increase its volume of hazardous waste or low-level radioactive waste or to accept waste to a different nature to be stored, treated, handled, or disposed of within the county prior to satisfactory compliance with the procedures set forth herein and prior to receiving a hazardous or low-level radioactive waste management permit as specified herein.

—(C) No existing storage treatment, transfer, or disposal facility for hazardous waste or low-level radioactive waste shall be permitted to continue operations within the county after 365 days from the adoption of this chapter without satisfactory compliance with the procedures set forth herein, including the receiving of a hazardous or low-level radioactive waste management permit as specified herein and satisfactory compliance with each and every condition specified by the Board of Commissioners as designated herein.

—(D) No construction or site preparation for a new hazardous waste or low-level radioactive waste management facility shall begin until a permit shall have been issued by the county.

(Ord. passed 9-15-1987) Penalty, see § 10.99

§ 94.06 APPLICATION:
A permit applicant shall prepare and file a hazardous waste permit application with the Board of Commissioners for any hazardous waste and/or low-level radioactive waste facility as described in § 94.05. The permit application shall include all related documents submitted to the federal government and the state. Where divisions (B), (C), and (D) below and § 94.09 are included in documents submitted to the federal and state governments, these need not be duplicated for the county permit; however, additional information as to how these items directly impact the county as well as cross-references to state and federal documents shall be included.

(B) The application shall contain the following information:

1. A description of the company, full information on its financial capability, and a detailed history of all its past activities in the field of hazardous and/or low-level radioactive waste management, including a synopsis of every other facility it has operated;
2. Evidence of liability insurance including environmental impact liability insurance and a history of any claims against the company at any site, including the parent company or any subsidiaries of the parent company;
3. Justification for and anticipated benefits from the project;
4. A description of the scope of the proposed project including a schedule of how much and what kinds of hazardous and/or low-level radioactive material the facility will accept, where the material will come from, what pretreatment will be required of wastes unacceptable to the facility without the pretreatment, and how long the facility is expected to operate;
5. The estimated project costs, including information on: the construction cost for the facility; the yearly site operation expenses; and an estimate of the costs for the lifetime of the project;
6. The proposed method of financing the project, including development, operation, and closure stages;
7. The proposed number of employees and types of positions, including information the training and experience required for each position, salaries to be paid, and safety precautions to be undertaken;
8. The anticipated date to begin construction;
9. The anticipated date to begin operation;
10. A detailed estimate to the types and amounts of municipal and county services local government will need to provide each year for the facility;
11. A description of emergency procedures and safety and security precautions that will be in place at the facility; this information should include details on emergency assistance that will be required from the surrounding community;
12. A description of the environmental protection measures to be taken by the applicant to prevent contamination on and around the facility site and a description of planned monitoring systems, with an estimated annual budget for each of these items;
13. A description of environmental protection measures to be used during transportation of materials to and from the facility, with an estimated annual budget for these arrangements and an estimate of the volume of material to be transported during each year of the facility's operation;
14. A description of the site closure plan for the facility, the anticipated date of closure and an estimate of the site closure costs; and
15. A description of anticipated need for post-closure care.

(C) A map or maps attached to the application shall include, but are not limited to, the following information:

1. Ownership.
   a. Name, address, and telephone number of legal owner and/or agent of property;
   b. Name, address, and telephone number of professional person(s) responsible for design, and for surveys;
   c. Description of any existing legal rights-of-way or easements affecting the property; and
(d) Reference to existing restrictive covenants on the property, if any.

(2) Description. Location of property by tax map and parcel number. The warranty deed book number and page reference or other evidence of title of the current owner;

(3) Features. Each map shall have the following information:
   (a) The map shall be drawn to a scale of not less than 200 feet to an inch;
   (b) Location sketch map showing relationship of the project site to the surrounding area;
   (c) Graphic scale, date, approximate north arrow, legend;
   (d) The location of the property with respect to surrounding property and streets, the names of all adjacent developments. The name and address of adjacent property owners according to the county tax records;

(e) Zoning classification of proposed project and adjacent property;

(f) The location of all boundary lines of the property;

(g) The total acreage of land in the project in the county and any other county if applicable;

(h) The location of existing and/or platted streets, easements, buildings (including mobile homes), railroads, parks, cemeteries, bridges, sewers, water mains, culverts, water wells, and gas and electric lines;

(i) The location of water bodies, watercourses (including sinkholes, dry stream beds, and pond overflows streams), ground water aquifers, springs, and other pertinent features;

(j) The location and width of all existing and proposed street rights-of-way and easements, and other public ways;

(k) The location, dimensions, and acreage of all property proposed to be set aside for various uses on the applicant's property;

(l) The location of all test wells and/or borings;

(m) The location of the 100-year flood plain, flood record, standard project flood, and inundation due to a dam break; and

(n) The location of faults, dikes, sills, and other pertinent geologic structures.

(4) Topographic map. A topographic map with contours at vertical intervals of not more than five feet, at the same scale as the project site map. The date and method of preparing the topographic survey shall be stated; and

(5) Transportation route map. A map showing proposed transportation route(s) to and from the facility site, including location of towns and emergency and safety facilities, and an estimate of the volume of material to travel on each route.

(D) The application shall address the following factors as they apply to the specific type of facility. Because each facility is unique, the Board of Commissioners may request, as they deem necessary, additional information, similar to that addressed below to complete the application:

(1) Contaminant flow to water table including leachate monitoring, collecting, and withdrawal systems; clay and synthetic lines (extra thickness, multiple liners); spill prevention and containment measures;

(2) Contaminant movement with ground water, including ground water monitoring systems at the site and in potentially affected area; subsurface "slurry wall" barriers' controls on other ground water withdrawals in area;

(3) Predictability of contaminant movement, based on preconstruction borings and groundwater modeling;

(4) Potential effect on surface waters; planned collection systems for surface water runoff; planned exclusion systems for surface water run on;

(5) Potential effect on aquifers; planned provisions for alternate water supply systems and facilities for immediate pumping and treatment of contaminated water;
— (6) Potential effect on public water supplies; planned runoff collection and treatment and provisions for alternate supply systems;
— (7) Possibility of site flooding; planned special facility design, special control dikes, and buffer zone setback in area of standard project flood area;
— (8) Potential human exposure to treated wastewater, including planned safety procedures, clothing, instruction, and practice for employees; planned oversized or redundant treatment capacity, effluent monitoring, and automatic shutdown systems;
— (9) Nature and predictability of pollution movement, including planned stack height for incinerators with continuous stack and plume monitoring and recording, until emission levels are predictable; planned segregation of incompatible wastes;
— (10) Potential human exposure to air pollution, including planned pollution control equipment, special combustion monitoring, and automatic shutdown systems and special air monitoring arrangements;
— (11) Safety of transportation route, including evacuation and re-routing plans, planned training and certification of truck drivers and other waste handling personnel and truck safety features;
— (12) Potential for noise impact, including limitations on hours for delivery and muffler installation;
— (13) Potential for impact on environmentally significant lands, planned bonding, insurance, financial responsibility, and monitoring;
— (14) Proximity to residential areas or sensitive sites, including planned purchase of buffer zones on adjacent lands, reduction in facility size, and distance limitation between similar facilities;
— (15) Compatibility with existing land uses, including orientation and layout of site plans; planned buffer zone setback from use area to facility owner's exterior property line, referred to as "minimum interior buffer setback", planned aesthetic design of facility and landscaping;
— (16) Compatibility with land use plans;
— (17) Impact on existing or future economic activity, including predicted tax base expansion and privilege license tax;
— (18) Potential for earthquake activity, including special facility design and evacuation plans to deal with the occurrences; and
— (19) Post-use problems, including bonding, liability, financial responsibility, and monitoring community and environmental health.

(E) Hazardous and/or low-level radioactive waste generators filing permit applications to store and/or treat wastes on site at the point of generation shall submit to the Board of Commissioners an application that also includes the following:
— (1) A summary of all spills at the site and the resultant cleanup operation;
— (2) A detailed description of the company's on-house monitoring and safety programs; and
— (3) Any additional information the Board of Commissioners may deem relevant to assessing the facility's impact on the health and welfare of the county's citizens.

(Ord. passed 9-15-1987)

§ 94.07 APPLICATION AND PROCESSING FEES.
— (A) All applicants not presently operating in the county requesting a hazardous waste and low-level radioactive waste permit for the storage, transfer, treatment, or disposal of nonhazardous waste and low-level radioactive waste shall pay a nonrefundable filing fee to the county in the amount of $10,000,000 concurrently with the filing of the application.
— (B) In addition to the nonrefundable filing fee required by division (A) above, the Board of Commissioners, upon the recommendation of the Hazardous Waste and Low-Level Radioactive Waste Board shall from time to time assess applicant's fees in the amounts as the commissioners shall find necessary and sufficient to reimburse the county for the cost of any needed professional assistance that
may be required by the county to evaluate the permit application and amendments, verify its content and evaluate the impact of such a permit on the community, public health and the environment. This assistance of lawyers, biologists, geologists, engineers, chemists, hydrologists, physicists, emergency response transportation and public health experts, land appraisers, and professional testing laboratories.

(C) Failure to provide the funds required hereby within 30 days of demand shall result in termination of the permit process or cancellation of the permit. The Board of Commissioners may take legal action against the applicant for any cost incurred to the county up to the point of denial or termination.

(Ord. passed 9-15-1987)

§ 94.08 APPLICATION PROCEDURE.

(A) The permit applicant shall submit to the Board of Commissioners two copies of all information required by federal and state agencies for the facility for which it requests a county permit at the same time the information is submitted to the state and federal government except facilities already located in the county which shall file the documents when they initiate the application be designated as complete until the time as all required data are submitted and the appropriate fees are paid, or suitable arrangements for payment have been approved by the Board of Commissioners.

(B) A designee of the Board of Commissioners shall compile copies of all reports, applications, minutes of Planning Board and Hazardous and/or Low-Level Radioactive Waste Board meetings, reports by consultants, and similar material. These shall be placed in one location with free access by the public and availability of copying any portion or all of any document at cost.

(C) Within 45 days of the submission of the application, the Board of Commissioners' designee shall hold a public hearing so that the applicant can present its plans to the public and answer questions.

(D) After the hearing, the Board of Commissioners' designee, after consultation with the Hazardous and Low-Level Radioactive Waste Board shall have 60 days in which to determine if the application is complete and shall mail notice of its determination to the applicant. If it is not complete the applicant shall have six months to complete the application. However, the applicant may at the end of six months make a showing of cause to the Board of Commissioners, and if the Board of Commissioners finds that the delay is justified and in good faith, they can grant the applicant a maximum three-month extension.

(E) Each application shall require an analysis conducted by the county staff and a consultant or consultants selected by the Board of Commissioners upon the recommendation of the Hazardous and/or Low-Level Radioactive Waste Board. The analysis shall be completed within 120 days from the day the application is determined to be complete. In certain instances where the complexity of the application required more than the usual 120 days, the county staff and/or the consultant may request an additional 60 days from the Board of Commissioners, and the proponent has the option of requesting the Board of Commissioners to extend the analysis period to allow time for responding to staff and/or consultant requests for additional information on a completed application.

(F) The Board of Commissioners' designee and each consultant shall make reports on the application to the Hazardous and/or Low-Level Radioactive Waste Board at their meetings.

(G) The Hazardous and/or Low-Level Radioactive Waste Board shall call a public meeting for public comment on the completed application along with the analysis by county staff and consultants. The purpose of this meeting shall be for public review of the application. The staff shall give notice by regular mail of the time and place of the public meeting to the owner and adjacent property owners as specified on the map. The notice shall be mailed not less than 14 days prior to the date specified thereon. Notice to the public meeting shall be posted by the applicant on the proposed facility property on each and every street of access, not less than 14 days prior to the date specified thereon. Notice of the public meeting shall be posted by the applicant on the proposed facility property on each and every street of access, not less that 14 days prior to the date specified thereon. The posted notices shall be at intervals of not greater than 1,500 feet. Notice shall also be placed by the applicant in each of the county newspaper not less than 14 days prior to the date specified thereon.
Within 45 days after review of the final analysis, completed application and public comment, the Hazardous and/or Low-Level Radioactive Waste Board shall make a recommendation to the Board of Commissioners at a public meeting whether to accept the application, deny it, or accept it with modifications. This recommendation shall be made to the full commission. However, before making a recommendation to the Board of Commissioners to accept the proposal or accept it with modifications, the Waste Board shall make the following determinations:

1. The construction and operation of the facility will not pose an unreasonable health or environmental risk to the surrounding locality;
2. The applicant (or facility operator) has the capability, and financial resources to construct, operate and maintain the facility;
3. The applicant or operator has taken or consented in writing to take any and all reasonable measures to comply with applicable federal, state, and local regulations and ordinances; and
4. The applicant's plan represents the best available technology for handling the wastes for which the applicant will be permitted, and that the applicant has demonstrated that it will employ the best management practices in handling the wastes at the proposed facility to achieve the goal of maximizing reuse, recycling, neutralization, detoxification, incineration, and volume reduction before long-term storage. In the case of generators storing or treating their wastes on-site at the time of adoption of this chapter, these facilities shall be held to the standard of best management practices and may be exempted from the standard of best available technology on that site until the time as they may file a permit application as in § 94.05(C).

At its next scheduled meeting, the Board of Commissioners shall make its decision to grant the permit, deny it, or grant it with specified conditions.

A permit shall be valid for no more than 18 months from the date it is granted by the Board of Commissioners unless the applicant begins construction of the facility prior to the expiration of the permit and continues to operate the facility according to specified conditions. If a permit becomes invalid and the application is unchanged from when the permit was granted, it shall follow the procedure of this section and the filing fee of § 94.07.

§ 94.09 CONDITIONS ON THE PERMIT.

The Board of Commissioners, upon the recommendation of the Hazardous and/or Low-Level Radioactive Waste Board, may specify conditions on granting a permit, as will, in their opinion, assure that the facility in its proposed location will meet the findings required in § 94.08(H). The Board of Commissioners also may specify the level of liability insurance that the facility operator must have in excess of levels required herein. All the specified conditions shall be entered in the minutes of the meeting at which the permit request is approved. All specified conditions shall run with the permit and shall also be binding on the original applicants, their heirs, successors, and assigns. Any noncompliance with the specified conditions constitutes violation of this chapter and may invalidate the permit.

The Board of Commissioners may limit or restrict the amounts and types of wastes entering the proposed site, may limit or restrict the type of treatment, handling, and/or disposal activities or may require additional treatment or handling of the waste(s) before entering, leaving, or being disposed of on the site.

In addition to conditions regarding the appropriateness of the proposed waste management scheme to the nature of the waste(s) handled, certain other conditions must be met by the proposed waste management facility. These include, but are not limited to:

1. Low-level radioactive waste and hazardous waste shall not be stored in the same facility;
— (2) No two waste management facilities, either hazardous or low-level radioactive waste management facilities, shall adjoin, and no more than one facility of either type shall be located per township with the exception of on-site storage and/or treatment at the point of generation; and
— (3) All wastes, hazardous or low-level radioactive, placed into any form of storage shall be retrievable and identifiable using best management practices.
(D) In addition to the restrictions as may be imposed pursuant to divisions (A), (B), and (C) above, the Board of Commissioners shall address the factors set out in divisions (D)(1) through (D)(22) below and may impose any conditions on the permit as the Board of Commissioners shall seem appropriate, including, by way of illustration only, the conditions set forth below:
— (1) Contaminant flow period to water table:
   — (a) Leachate monitoring, collection, and withdrawal system;
   — (b) Clay and synthetic liners; extra thickness, multiple liner; and
   — (c) Spill prevention and containment measures.
— (2) Contaminant movement with groundwater:
   — (a) Ground water monitoring systems at site in potentially affected areas;
   — (b) Subsurface "slurry wall" barriers; and
   — (c) Controls on ground water withdrawals in area;
— (3) Predictability of contaminant movement — additional preconstruction soil borings and groundwater modeling;
— (4) Potential effect on surface water — collection systems for surface water runoff;
— (5) Potential effect on aquifers:
   — (a) Provision of alternate water supply system;
   — (b) Liability insurance;
   — (c) County monitoring and inspection at applicant's expense, both on site and in potentially affected areas; and
   — (d) Contingency plan for sudden or non-sudden spills and an impact of cleanup on the environment.
— (6) Potential effect on aquifers:
   — (a) Provision of alternate water supply system;
   — (b) Liability insurance;
   — (c) County monitoring and inspection at applicant's expense, both on site and in potentially affected areas; and
   — (d) Contingency plan for sudden or non-sudden spills and an impact of cleanup on the environment;
— (7) Potential effect on public water:
   — (a) Special runoff collection and treatment; and
   — (b) Provision of alternate water supply system.
— (8) Possibility of site flooding:
   — (a) Special facility design;
   — (b) Special control dikes;
   — (c) Special liability insurance; and
   — (d) Buffer zone setback in area of standard project flood area.
— (9) Potential human exposure to treated wastewater:
   — (a) Oversized or redundant treatment capacity;
   — (b) Effluent monitoring and automatic shut-down systems; and
   — (c) Liability insurance.
(10) Nature and predictability movement:
(a) Increased stack height; and
(b) Modeling of ground water movement.

(11) Potential human exposure to air pollution:
(a) Additional, oversized, or redundant pollution control equipment;
(b) Increased stack heights;
(c) Special combustion monitoring and automatic shut-down systems; and
(d) Special air monitoring arrangement.

(12) Safety of transportation route:
(a) Evacuation plans and training;
(b) Transportation re-routing;
(c) Access road construction;
(d) Training of emergency fire and medical personnel; and
(e) Truck safety features.

(13) Distance between sensitive sites and transportation route—relocation of schools or other sensitive facilities;

(14) Potential for noise impact:
(a) Limitation on hours for delivery; and
(b) Muffler installation.

(15) Potential for impact on environmentally significant lands—monitoring and protection of environmentally significant lands;

(16) Proximity to residential areas or sensitive sites:
(a) Purchase of buffer zone on adjacent lands;
(b) Reduction or limitation in facility size; and
(c) Distance limitation between facilities.

(17) Compatibility with existing land uses:
(a) Orientation and layout of site plans;
(b) Buffer zone setback from use area to facility owner’s exterior property line referred to as a minimum interior buffer setback;
(c) Aesthetic design or facility and landscaping;
(d) Volume reduction requirements; and
(e) Regular reporting of types and volume of waste handled.

(18) Compatibility with land-use plans;

(19) Potential effect on property value;

(20) Impact on existing economic activity:
(a) Tax base expansion; and
(b) Privilege license tax.

(21) Potential for earthquake activity:
(a) Special facility design; and
(b) Evacuation plans.

(22) Inspection and monitoring—employees and agents of the county have the right at any time to go on the premises for purposes of inspection and monitoring; and

(23) Impact on historical and archeological sites—historical and archeological resources should be protected and preserved.

(Ord. passed 9-15-1987)
§ 94.10 MONITORING AND SAFETY.

(A) Purpose. The purpose of this section is to supplement and complete the monitoring and safety activities of the federal and state governments. The Board of Commissioners recognize the primary responsibility of the federal and state governments in this area. However, they also recognize the appropriations and human effort to fulfill this responsibility have often been inadequate, and that county responsibility is therefore necessary and lawful. The duties described herein shall begin upon receipt of a permit application.

(B) Duties of the Health Department (or the Board of Commissioners' designee, hereafter referred to as the "Health Department"). The Health Department is hereby directed to undertake the following monitoring and safety duties:

1. To monitor the air, surface water, and ground water during the operation of the facility(s);
2. To monitor soil, plant, microbial, viral, and animal samples during the operation of the facility(s);
3. To conduct human health surveys and monitoring in the area around the facility(s) including statistical surveys, blood samples, and other surveys which may be necessary to determine the effect of exposure to trace any accidental discharges of hazardous or low-level radioactive waste;
4. To verify the content of shipments and storage of hazardous and/or low-level radioactive waste against shipping manifests and other records;
5. To inspect the interiors of structures located on the waste facility site(s) for hazardous, unhealthy, or otherwise unlawful conditions;
6. To inspect and take samples within the site boundaries of any hazardous and/or low-level waste facility(s) in the county;
7. To verify, by laboratory analysis, that samples taken by facility operators are in fact what they are claimed to be, and to check the accuracy of any laboratory facilities within the county which regularly test hazardous or low-level radioactive waste samples;
8. To prepare an emergency response plan, and prepare adequate emergency medical equipment and personnel to handle emergencies arising out of the transportation, storage, treatment, or disposal of hazardous or low-level radioactive waste in the county, to the extent that the measures are not otherwise undertaken by the facility operator(s) or the state and federal governments;
9. To monitor traffic flows near facilities and on approach routes within the county, and design measures to minimize traffic disruption and accidents, with special consideration for the routing of school buses and the safety of the county's school children; and
10. To perform any other duties as the Board of Commissioners or the Hazardous and/or Low-Level Radioactive Waste Board may find necessary from time to time to safeguard the public health and welfare.

(C) Authorization of Health Department. In order to carry out the duties specified in division (B) above, the Health Department is authorized to do the following:

1. Immediately upon issuance of the first permit in the county, the Health Department may hire or designate an individual or individuals trained to identify unsafe, unsanitary, or otherwise hazardous conditions in waste facility structures. This building inspector is charged with making periodic inspections during the construction and/or operation of any and all hazardous and/or low-level radioactive waste management facilities in the county. The Building Inspector shall also make unannounced inspections, by presenting his or her credentials at a reasonable hour, when he or she has reason to believe that hazardous or unlawful conditions may exist anywhere in such a structure.
2. Immediately upon issuance of the first permit in the county, the Health Department may hire or designate persons capable of performing a background health study on the people of the county and of outlining before the County Hazardous and/or Low-level Radioactive Waste Board a plan for
monitoring the people of the county in order that health problems from any hazardous and/or low-level radioactive waste management facility in the county could be detected sufficiently early in their developments and in order that appropriate legal action could be taken. Personnel and laboratory facilities available to the county through the Health Department. The County Hazardous and/or Low-Level Radioactive Waste Board shall recommend to the Board of Commissioners plans it feels sufficient for this task within six months and the Board of Commissioners shall have one month thereafter to approve the plan and hire the appropriate service.

— (3) The Health Department may hire or designate an engineer to review the certificates of need as specified in § 94.11(A).

— (4) The Health Department may hire or designate a chemist or radiation specialist qualified to sample wastes at the gate to the facility and to visually inspect the truck, the manifest forms and a copy of the certificate of need and the condition of the waste before the waste enters the facility. The Board of Commissioners shall provide contract lab services sufficient to analyze such within a four-day period from the time of sample collection.

— (5) The Health Department may hire or designate an individual or individuals trained to safely handle and sample hazardous waste and low-level radioactive waste and also to collect and safely handle and transport environmental samples for site monitoring and also for environmental monitoring off-site. This person shall make regular announced and unannounced inspections, by presenting his or her credentials at a reasonable hour, for the purpose of collecting such samples as the Health Department, following the recommendations of the County Hazardous and/or Low-Level Radioactive Waste Board shall deem necessary to adequately monitor the site.

— (6) The Health Department is authorized to hire or designate an emergency medical technician who shall be fully trained to deal with emergency medical situations arising out of the operation of hazardous and/or low-level radioactive waste facilities and transportation of waste to and from the facilities.

— (7) The Health Department is authorized to require from the facility operator a list of trained emergency personnel at the facility, particularly persons trained in emergency response to spills or discharges of ultrahazardous wastes.

— (8) The Health Department is authorized to request administrative support from the county, including secretarial time, paper, telephone time, copying, and other support as may be necessary to carry out these functions.

— (9) The Health Department is authorized to purchase any equipment as may be necessary to carry out the monitoring and emergency preparedness duties of this section.

— (10) The Health Department is authorized to prepare and disseminate educational materials and consult with adjoining landowners to the facility(s), farmers, schools, and other groups which may be affected concerning health effects of hazardous or low-level radioactive waste.

— (11) The Health Department is authorized to carry out the duties as it or the Hazardous and/or Low-Level Radioactive Waste Board may find necessary from time to time to ensure the public health, safety, and welfare.

— (D) Duties of the County Finance Officer. The County Finance Officer is directed to arrange suitable bonding, insurance, and other protective measures as described in §§ 94.12(C)(7) and (C)(8) and 94.13 below, and to report the arrangements to the Board of Commissioners.

— (E) Duties of County Attorney. The County Attorney is directed to provide legal advice, drafting, and other assistance as described in § 94.12(C)(2), (C)(5), and (C)(6) below.

— (F) Other duties. The Board of Commissioners shall direct responsible officials of the county to undertake the other monitoring and safety actions as may be required by this and other sections of this chapter.

(Ord. passed 9-15-1987)
§ 94.11 OPERATION.

(A) Certificate of need.

(1) All persons who operate facilities to handle, treat, transfer, store, or dispose of hazardous or low-level radioactive waste in the county, other than on-site storage and/or treatment at the point of generation, must provide the Hazardous and/or Low-Level Radioactive Waste Board or its designee a certificate of need for each shipment of waste. This certificate must detail the generator's effort to reuse, recycle, reduce in volume, detoxify, neutralize incinerate, or appropriately dispose of the waste at the point of generation, or subsequent efforts at some other waste management facility, before shipment to the county or within the county to the facilities. The persons must also specify how treatment, handling, or disposal in the county employs best available technology for the disposal of the waste. The certificate must also include information regarding the condition and contents of the shipment, and proper visible labeling of acute hazardous wastes on the vehicle, before the shipment enters the county. This certificate must be on file with the county and a reply from the Hazardous and/or Low-Level Radioactive Waste Board or its designee must be received by the facility operator before the shipment may enter the county. If, upon recommendation of its designee, the Hazardous and/or Low-Level Radioactive Waste Board finds by majority vote that the shipment of waste does not conform to the waste management practices for which the county facility is permitted, the Hazardous and/or Low-Level Radioactive Waste Board is empowered to deny the shipment admittance to the facility. The facility operator may request a hearing before the Board of Commissioners to challenge the Hazardous and/or Low-Level Radioactive Waste Board decision. The Board of Commissioners shall schedule a public hearing within ten days to hear the challenge. The facility operator shall have the burden of proof in any such hearing.

(2) All incoming waste must be stored on the facility site, in an area utilizing best management practices for the proper storage of the wastes, for four days while laboratory analysis as described in § 94.10(B)(7) is being performed. No waste may be otherwise handled, treated, or disposed of on-site until the laboratory analysis is complete and the chemist verifies in writing to the site manager that the shipment may be processed.

(B) Management practices orders.

(1) The Hazardous and/or Low-Level Radioactive Waste Board, as described in § 94.04, shall keep abreast of developments in waste management technology and developing management practices. If the Hazardous and/or Low-Level Radioactive Waste Board discovers a new management practice, not currently in use at facilities within the county covered by this chapter, which could be employed to recycle, reuse, neutralize, detoxify, incinerate, or reduce the volume of hazardous or low-level radioactive waste generated, stored, disposed, or transferred in the county, it shall prepare a report to that effect. It shall include in the report a summary of the benefits and costs of the practice, the wastes affected by the practice, and a proposal for implementing it at facilities within the county. It shall then submit the report to all affected facility operators within the county. The facility operator(s) shall reply in writing to the Hazardous or Low-Level Radioactive Waste Board within 45 days, specifying plans to implement the practice, or reasons why the facility operator(s) believe(s) the practice should not be implemented.

(2) If, after the exchange of reports, the Hazardous and/or Low-Level Radioactive Waste Board, by majority vote, finds that the practice should be implemented at facilities in the county, it shall prepare a report and order to that effect and submit it to the Board of Commissioners. The Board of Commissioners shall approve and publish the order, which shall be effective as an amendment to the permit(s). The facility operator(s) may appeal the order within 30 days, by so requesting in writing to the Board of Commissioners. The Board of Commissioners shall announce a public hearing within 30 days thereafter at which the Hazardous and/or Low-Level Radioactive Waste Board and the facility operator(s) shall present their cases, and at which the facility operator(s) shall be assigned the burden of proof. The Board of Commissioners shall then either reaffirm the order or remit the matter to the Hazardous and/or Low-Level Radioactive Waste Board for further study.
(C) Other duties. The Board of Commissioners shall direct responsible officials of the county to undertake any other duties as may be required by this or other sections of this chapter.

(Ord. passed 9-15-1987)

§ 94.12 PRIVILEGE LICENSE TAX.

(A) Purpose. The facility operator(s) shall be assessed the following tax for the reasonable expenses that the county may incur for the following emergency services:

(1) Equipment acquisition. The acquisition of special emergency equipment for dealing with hazardous and/or radioactive substances, to include protective clothing, detoxification equipment, breathing apparatus, collection apparatus, alarm systems, direct telephone or radio connection equipment, Geiger counter, special medical vehicles, and other such equipment as the county may reasonably require;

(2) Equipment maintenance. The cost of necessary maintenance and replacement of equipment as described in this section;

(3) Evacuation plans. The cost of preparing, testing, disseminating, and implementing both on-site and off-site emergency evacuation plans, the cost of keeping the plans current, and the cost of carrying them out should the need arise;

(4) Initial training. The cost of initial training for the county's emergency response personnel, to include psychological preparedness training, to deal with emergency situations involving hazardous and/or low-level radioactive waste, and the cost of expanding the training as necessary;

(5) Updating training. The cost of updating the training as described in division (A)(4) above from time to time, and the cost of training new personnel;

(6) Hospital preparedness. Additional costs to the county's hospitals as a result of the need for special emergency units at those hospitals to handle hazardous and/or low-level radioactive waste emergencies;

(7) Transportation emergency fund. An additional amount to purchase insurance to cover the costs of emergencies caused by accidents involving the transportation of hazardous and/or low-level radioactive waste to or from the facilities, for accidents occurring between the site boundary and the county line;

(8) Post-closure emergency fund. An additional amount to purchase insurance to cover the costs of emergency services required to handle emergencies caused by hazardous and/or low-level radioactive waste facilities after the facilities have closed; and

(B) Monitoring.

(1) Purpose. The purpose of this division (B) is to ensure that adequate funds are available to fully monitor the environmental and health effects of the location of hazardous and/or low-level radioactive waste facilities in the county, and to ensure that the monitoring is in fact carried out. The Board of Commissioners recognize that the state and federal governments have primary responsibility in this area, but they also recognize that the resources of these governments are limited, and that the data generated by this county monitoring program is intended to supplement and complete the data generated by the state and federal monitoring programs.

(2) Monitoring costs. The facility operator(s) shall be assessed as a part of a privilege license tax to compensate for the monitoring functions undertaken by the county pursuant to § 94.10. This tax shall include:

(a) Salaries of county personnel needed to carry out any of the monitoring functions;
(b) Administrative support costs which are reasonably necessary to fulfill the duties of the county monitoring personnel, to include office supplies, secretarial time, maintenance of a public document room, and other such costs;

(c) The costs of training inspection and monitoring personnel and of updating the training from time to time;

(d) Costs incurred in hiring consultants to assist the county in monitoring;

(e) An additional sum, to be agreed upon by the facility operator and the Board of Commissioners, for maintaining monitoring of the environment and human health effects for perpetuity. This money shall be placed into a nonreverting fund, with interest to accrue to the fund, which shall be managed by the County Finance Officer, who shall give an annual accounting of the fund to the Board of Commissioners;

(f) The cost incurred to buy and maintain equipment needed for monitoring; and

(g) Other reasonable costs of monitoring as may be necessary.

(C) Other costs. The Board of Commissioners find that the following costs are associated with hazardous and/or low-level radioactive waste facilities and their operations, and that the county is not otherwise compensated for the costs, and that the costs shall therefore properly be assessed under G.S. § 153A-152.1(a) to the facility operator(s), and are to also be made a part of the privilege license tax.

(1) Recordation. It should be a matter of public record that property is located within a five-mile radius of a hazardous and/or low-level radioactive waste facility, operating or closed. The costs incurred by the registrar of deeds for placing notations to that effect on all deeds, grants, indexes, plats, and other relevant affected documents shall therefore be assessed to the facility operator(s).

(2) Public information. The location of a waste facility is a matter of which the public should be completely informed and concerning which the public should have ready access to the relevant information. Therefore, the following costs shall be assessed to the facility operator(s):

(a) Consultation with adjoining landowners. The cost of advising adjoining landowners as to their legal rights with respect to the facility, and as to health precautions;

(b) Consultation with farmers. The cost of advising farmers in the surrounding area as to health precautionary measures in the event of accidents or spills for their livestock and crops;

(c) School educational programs. Cost incurred, to the extent not already provided for by the county or state school budgets, in presenting instructional materials to county school children on the facility, its potential hazards, and emergency preparedness; and

(d) Health information. Costs incurred by the County Health Department in disseminating information concerning the facility and its effect on the public health.

(3) Construction and maintenance of roads. To the extent that the county is not otherwise compensated therefor by the federal or state governments, costs incurred in improving or maintaining existing roads and rights-of-way, acquiring new rights-of-way, and constructing access roads, building parking areas, erecting warning signs or signals, and other such expenses as the county may demonstrate are associated with the facility and the increased traffic associated with it.

(4) Loss of ad valorem taxes. To the extent that off-site contamination, regardless of negligence on the part of the facility operator, reduces ad valorem revenues to the county, the loss to the county shall be compensated by the facility operator.

(5) Annual legal advice. The cost to the county of an annual review of those ordinances and other laws and regulations in the field of waste management.

(6) Attorney's fees. The cost to the county of reasonable legal representation in all cases arising out of the operation of the facilities in the county, or arising out of challenges to this chapter, provided that the county is the prevailing party, or the county has had substantial justification for its position, and has not litigated vexatiously.
— (7) Bonding. The costs to the county of arranging suitable bonding or insurance or other financial security arrangements to cover the costs arising out of the location of facilities within the county.

— (8) Other. Other costs the county may incur, and which the county may demonstrate are associated with the operation of the facility, and for which the county is not otherwise compensated.

— (D) How tax calculated. The tax calculated as follows:

— (1) Annual. The annual tax shall be calculated by adding together the above enumerated expenses at the end of the calendar year;

— (2) Quarterly payments. The facility operator may arrange to make estimated quarterly payments in advance;

— (3) More than one facility. If there is more than one hazardous and/or low-level radioactive waste facility in the county subject to this chapter, the total tax for each facility shall be prorated among the various facility operators according to the percentage of the total weight of the wastes each operator has generated, treated, or disposed of in the county for this calendar year; and

— (4) Negotiation. Should the facility operator have reason to believe that this privilege license tax would prohibit or have the effect of prohibiting the continued operation of the facility, he or she shall specify in writing in a report to the Hazardous and/or Low-Level Radioactive Waste Board, setting forth the grounds for the belief with particularity, and stating the level of tax which would enable the operation. The Hazardous and/or Low-Level Radioactive Waste Board is empowered to negotiate the total tax, provided:

——(a) That all the negotiations shall include at least one public meeting;

——(b) That any decision be reported in writing to the Board of Commissioners, with the reason therefor;

——(c) That the agreement must be approved by the Board of Commissioners before becoming final; and

——(d) That the agreement be renegotiated each year.

(Ord. passed 9-15-1987)

§ 94.13 HAZARDOUS WASTE CLEANUP FUND:

— (A) Purpose. The Board of Commissioners share the North Carolina General Assembly’s great concern for the safe and effective disposal of hazardous and/or low-level radioactive waste, and have in addition a great concern for the economic and public health costs resulting from inefficient cleanup of past accidents. The Board of Commissioners recognize the benefit of speedy cleanup of past accidents. The Board of Commissioners recognize the benefit of speedy cleanup, manifested in monetary savings and in the prevention of permanent damage to life and property. The Board of Commissioners also recognize that the cleanup, manifested in monetary savings and in the prevention of permanent damage to life and property. The Board of Commissioners also recognize that the cleanup funds established by the state and federal government are inadequate to insure speedy and adequate compensation, particularly for damages to individuals. The purpose of this section is to establish an emergency response fund, to be funded by an additional privilege license tax, particularly for individual medical and property damage, off-site contamination, and transportation accidents, and other costs arising out of the location and operation of hazardous and/or low-level radioactive waste facilities in the county.

— (B) Establishment of Fund. There is hereby established, pursuant to the authority vested in the Board of Commissioners by G.S. §§ 153A-121, 153A-152.1, and 152B 216.10, a special Hazardous Waste Cleanup Fund, to be disbursed liberally and speedily upon notification of any dangerous spill or leakage that is not immediately remedied by the party responsible or by the federal or state governments. The Fund will supplement any state funds established, and it is the intent of the Board of Commissioners that it should be used first to cover personal injury costs and off-site contamination costs. Should the Fund be found to be invalid for whatever reason, the monies collected and accrued
interest shall be returned to the facility operator(s) in the same shares as it was paid in; otherwise, the Fund shall be nonreverting.

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(C) How collected. The privilege license tax collected under this section shall be 6% of the gross annual receipts of all hazardous and/or low-level radioactive waste facilities in the county subject to this chapter, until the principal of the fund shall reach $25,000,000 with all interest to accrue to the fund.

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(D) Management. The County Finance Officer and one member of the Board of Commissioners shall be appointed managers of the Fund. They shall give any annual accounting of the Fund to the Board of Commissioners and to all subject facility operators in the county. The County Finance Officer shall, pursuant to this section, prepare a report on the best means of investing these tax revenues within 30 days of the receipt of an application for a major hazardous or low-level radioactive waste facility in the county. It is the intent of the Board of Commissioners that these revenues shall not be invested in the securities, obligations, or other instruments of industries which are major producers of hazardous or low-level radioactive waste.

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(E) Procedure for disbursement. The County Attorney is directed to draw up a plan and procedures for disbursement, which shall be designed to:

1. Ensure prompt response to individual claims and cleanup actions;
2. Ensure that all disbursements are made in accordance with state and federal laws; and
3. Ensure that there is provisions for periodic disbursements where the nature of the injury so requires.

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(F) Authority to disburse. The Hazardous and/or Low-Level Radioactive Waste Board, by majority vote, shall be the disbursing authority for payment made from the Fund. The Hazardous and/or Low-Level Radioactive Waste Board shall prepare a written report of any meeting at which the vote is taken, including the names of persons voting for and against, amount voted, and reasons. The Board of Commissioners shall review the report at its next meeting.

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(G) Collection of expenditures. The County Attorney shall prepare a plan for collecting expenditures from the Fund from parties responsible for discharges requiring the expenditures.

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(H) Procedure for closing of Fund. The County Finance Officer shall prepare a plan for the closing of the Fund within a reasonable time after the closure of the facility(s) in the county, but notwithstanding anything else herein to the contrary, it is ordained that the funds shall be retained until it is determined by the Board of Commissioners that no remote possibility of potential damage exists to the health of the citizens of the county or to the environment. This determination shall only be made by the Board of Commissioners after a careful, scientific evaluation is made employing the best available technology.

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(I) Until the fund set up under division (C) above reaches $25,000,000, all hazardous and/or low-level radioactive waste facilities in the county subject to this chapter, shall jointly post a bond in favor of the county in an amount which represents the difference between the balance in the fund and $25,000,000 to guarantee the speedy and prompt performance of the terms of this section. That all bonds required under this section shall be signed and executed by the principal and guaranteed by a surety company duly licensed to do business in the state and authorized to post and give bond to be received by any department of the state government. Any person, firm, or corporation presenting any indemnity or guaranty company as surety for the bond shall accompany his or her bond with a statement of the Insurance Commissioner as to the condition of the company, and the statement shall include, but not be limited to, the following:

1. That the bonding company is licensed to do business in the state;
2. That the bonding company is authorized to post bonds for any Department of State government in the amount for which bond is sought and that in the opinion of the Insurance Commissioner, the financial condition of the bonding company is such that it will be able to carry out and perform the terms of the bond if it shall be required to do so; and
§ 94.14 ENFORCEMENT.

(A) In general. Pursuant to the power vested in the Board of Commissioners by G.S. §§ 153A-121, 153A-123, and 143B-216.10, the county, through its responsible officers, shall enforce the provisions of this chapter to ensure and safeguard the public health, safety, and welfare.

(B) Violations. Any noncompliance with conditions of a county permit or operation of a facility without a permit, any release of hazardous or low-level radioactive waste in amounts sufficient to constitute a hazard to the public health and safety, any noncompliance with the procedural requirements of this chapter or refusal to permit county officials designated under this chapter to enter buildings, structures, enclosed areas, or other areas in the performance of their lawful duties, any refusal to pay taxes and fees as provided for by this chapter, and any failure or refusal to provide information or apply for amendment to permit(s) as may be required by this chapter upon proper notice shall be a misdemeanor, which may be punished as indicated in G.S. Title 14.

(C) Every day a separate violation. Each day of violation of this chapter shall constitute a separate offense.

(D) Injunction. The county may seek injunctions in the appropriate court of competent jurisdiction, when the operation of a hazardous or low-level radioactive waste facility is in the judgment of the Health Department creating an imminent hazard to the health, safety, and welfare to the public. The county may also seek any appropriate equitable relief that it deems necessary to ensure the public health and welfare.

(E) Management practice enforcement. Any waste facility operator who, having received a final order from the Board of Commissioners to implement a management practice as described in this chapter, fails to implement such a practice within the time prescribed, shall pay a management practices fee of 10% of the gross receipts accepted by the facility operator for the wastes as are covered by the order. The facility operator shall continue to pay the fee until the time as he or she can satisfactorily demonstrate to the Hazardous and/or Low-Level Radioactive Waste Board that the management practice in question has indeed been implemented.

(F) Permit revocation. For any facility operator who has committed a violation, as defined in division (B) above, or for whom the continued operation of the facility poses an unreasonable hazard to the health and welfare of the public, the Hazardous and/or Low-Level Radioactive Waste Board may publicly announce its intention to recommend revocation of its permit. The facility operator may request a hearing, and the Hazardous and/or Low-Level Radioactive Waste Board in mitigation, to demonstrate subsequent remedial action, and the like. If the Hazardous and/or Low-Level Radioactive Waste Board recommends that the permit be revoked, it shall so report to the Board of Commissioners in writing. Within ten days of the receipt of the recommendation, the Board of Commissioners shall hold a public hearing after which they shall continue or revoke the permit. The Board of Commissioners may continue the permit upon finding:

1. That the facility operator had made a good faith effort to comply with the permit and to remedy violations;
2. That reinstatement of the permit would not endanger the public health and welfare; and
3. The facility operator has proposed a plan to remedy and any hazardous conditions on the facility site as expeditiously as possible.
§ 94.15 LIABILITY.
(A) Generally. By authority vested in them in G.S. §§ 153A-136, the Hazardous and/or Low-Level Radioactive Waste Board does hereby ordain that all persons storing, treating, or disposing of hazardous waste or low-level radioactive waste in the county shall be held to a standard of strict liability for spills, accidents, contamination, or other discharges and hazards arising from the facility.
(B) Definition. As used in this chapter, the term STRICT LIABILITY shall mean that persons storing, transferring, treating, or disposing of hazardous waste or low-level radioactive waste shall be liable for all emergency cleanup costs, cleanup costs in general, damages to persons and property, and other costs resulting from discharge or contamination which was the result of intentional, unintentional, negligent conduct, accident, or other cause.
(C) Duration. It is the intent of Hazardous and/or Low-Level Radioactive Board that this section be temporary in nature, to remain in effect until the time as the General Assembly addresses the issue directly, as it is its stated intention to do.
(D) Transportation. It is further ordained that persons transporting hazardous waste or low-level radioactive waste to destinations in this county shall be held to the same standard of strict liability for all emergency cleanup costs, cleanup costs in general, damages and other costs resulting from discharges or contamination caused by spills or accidents of intentional or unintentional releases during transportation within the county, or the discharges or contamination occurring while the transportation vehicle is anywhere within the county except within the boundaries of the actual facility site for which it is destined, at which time it shall be considered stored by the facility operator.

Section 13. Chapter 95 of the Lincoln County Code of Ordinances is amended as follows:

§ 95.132 UNSAFE, DEFECTIVE BUILDINGS OR SYSTEMS.
All buildings or service systems, which are unsanitary, constitute a fire hazard, or constitute a hazard to safety or health, bad conditions of walls, overload floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress are considered unsafe. All the unsafe building or service systems shall be abated by repair and rehabilitation or by demolition in accordance with the provisions of the technical codes.

(See Attachment "B" of the ordinance codified in this chapter as reference for copies of G.S. §§ 153A-365 through 153A-374, N.C.G.S. §§ 160D-1118 through 160D-1124).
(Ord. passed - -) Penalty, see § 95.999

Section 14. Chapter 110 of the Lincoln County Code of Ordinances is amended as follows:

COMMERCIAL OUTDOOR SHOOTING RANGES

§ 110.02 INTENT.
(A) Generally. It is the intent of this subchapter to accomplish the following.
(B) Specifically.
(1) Permitting, registration, and compliance. New shooting range facilities shall be established and operated only in accordance with a valid permit issued by the county. In addition, existing ranges shall be registered and shall comply with the provisions of this subchapter within 180 days of enactment of this subchapter.

(2) Shot containment. Each shooting range facility shall be designed to contain the bullets, shot, or arrows on the range facility.

(3) Noise mitigation. Each shooting range facility shall be designed to minimize off-site noise impacts generated by the activities conducted on the range facility.

(Ord. 2008-01, passed 7-21-2008) Penalty, see § 110.99

§ 110.06 PERFORMANCE STANDARDS.

(A) Generally. The following performance standards shall apply to all shooting range facilities.

(B) Specifically.

(1) Shot containment. Shooting range facilities shall be designed to contain all of the bullets, shot, or cottons or any other debris on the range facility. Design should be in general conformity with suggested practices contained in the most recent edition of the National Rifle Association's The Range Source Book: A Guide to Planning and Construction, or its successor publication.

(2) Noise mitigation. Noise levels measured at the property line where the facility is maintained or, in the case of leased land, at the property line of any leased parcel shall not exceed 65 dBA when located adjacent to residential or commercial property or 75 dBA when adjacent to industrial property.

(C) Violations. Any violation of this subsection shall be enforced subject to §110.12 herein.

(Ord. 2008-01, passed 7-21-2008) Penalty, see § 110.99

§ 110.07 DEVELOPMENT REQUIREMENTS.

(A) Setbacks. Notwithstanding the performance standards of § 110.06, all shooting stations on a range facility shall be located a minimum of 200 feet from any property line.

(B) Warning signs. Warning signs meeting National Rifle Association (NRA) guidelines for shooting ranges shall be posted at 100-foot intervals along the entire perimeter of the shooting range facility.

(C) Distance from occupied dwelling. All shooting stations shall be located at least one-fourth mile (1,320 feet) from any existing, occupied dwelling.

(D) Violations. Any violation of this subsection shall be enforced subject to §110.12 herein.

(Ord. 2008-01, passed 7-21-2008) Penalty, see § 110.99

§ 110.08 OPERATIONAL REQUIREMENTS.

(A) Hours of operation. Shooting ranges shall be allowed to operate between sunrise and sunset, except that the hours may be extended after sunset for purposes of subdued-lighting certification of law enforcement officers, or may be extended for other purposes only when a permit allowing the activity is issued in advance by the Sheriff's Department. On Sundays, shooting shall not commence before 12:30 p.m., unless a permit allowing the activity is issued in advance by the Sheriff's Department.

(B) Liability insurance. The permittee shall be required to carry a minimum of $500,000 of liability insurance. The insurance shall name the county as an additional insured party and shall save and hold the county, its elected and appointed officials, and employees acting within the scope of their duties harmless from and against all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, arising in favor of a person or group's members or employees or third parties on account of any property damage arising out of the acts or omissions of the permittee, his or her
group, club, or its agents or representatives. The county shall be notified in writing of any policy changes or lapses in coverage.

(C) **Shooting range master.** A qualified shooting range master, employed by the shooting range, must be physically present at the shooting station at all times that firearms are discharged on the shooting range.

(D) **Violations.** Any violation of this subsection shall be enforced subject to §110.12 herein.

(Ord. 2008-01, passed 7-21-2008) Penalty, see § 110.99

§ 110.09 PROCEDURE FOR SECURING APPROVAL FOR NEW RANGES.

(A) **Permit application.** An application for a permit to establish and operate a shooting range facility shall be submitted by the legal property owner(s) or owner's agent to the Building and Land Development Department. The permit shall be secured prior to issuance of any other building or improvement permit by the county.

(B) **Fees.** The application shall be accompanied by an application fee of $100.

(C) **Required information.** The applicant shall provide sufficient information as required by these provisions in order to properly evaluate the permit application. In addition, copies of any written agreements from the adjoining property owners and a letter from the insurance company to provide liability insurance shall accompany the permit application.

(D) **Site plan.** A site plan for the entire range facility which shows the following applicable information drawn to an appropriate scale, shall accompany the permit application:

1. Property lines for any parcel upon which the range facility is to be located, north arrow, plan scale, date, and ownership information for the site;
2. Complete layout of each range, including shooting stations or firing lines, target areas, shotfall zones or safety fans, backstops, berms, and baffles;
3. Projected noise contours;
4. Existing and proposed structures; occupied dwellings within one-fourth mile (1,320 feet); roads, streets, or other access areas; buffer areas; and parking areas for the range facility; and
5. Any other appropriate information related to the specific type of range(s) being proposed.

(E) **Action.**

1. Within 30 working days or at the next available meeting, whichever is sooner, the Planning Board shall take one of the following actions:
   a. Reject the application as incomplete;
   b. Approve the issuance of the permit; or
   c. Deny the permit request.

2. In any case, the written findings to support the action taken shall be provided to the applicant.

(F) **Permit display.** Permits shall be kept and displayed in a readily visible location on the shooting range facility, and at all times be available for public inspection.

(G) **Permit transferability.** A permit issued pursuant to this subchapter may not be transferred to another operator without the written approval and consent of the Building and Land Development Department.

(H) **Changes or expansions.** If any shooting range facility is intended to be substantially changed or expanded to include types of ranges, operations, or activities not covered by an approved permit or otherwise cause nonconformance with this subchapter, a new permit for the entire facility shall be secured in accordance with all of the provisions of this subchapter.

(I) **Violations.** Any violation of this subsection shall be enforced subject to §110.12 herein.

(Ord. 2008-01, passed 7-21-2008) Penalty, see § 110.99
§ 110.10 REGISTRATION AND COMPLIANCE OF EXISTING RANGES.

(A) **Registration.** All existing ranges shall provide a site plan, prepared in accordance with § 110.09(D), within 90 days after the effective date of this subchapter. No fees will be charged, and no permits will be required.

(B) **Compliance.** Any existing shooting range facility determined not to be in compliance shall be made to obtain a permit and comply with all of the requirements of this subchapter within 180 days after the effective date of this subchapter.

(C) **Abandonment and discontinuance.** When an existing shooting range is discontinued without the intent to reinstate the range use, the property owner shall notify the county of the intent.

(D) **Violations.** Any violation of this subsection shall be enforced subject to §110.12 herein.

(Ord. 2008-01, passed 7-21-2008) **Penalty, see § 110.99**

§ 110.12 VIOLATIONS.

(A) The County Sheriff's Department shall be responsible for the enforcement of this subchapter. Any violation or attempted violation of this subchapter or of any condition or requirement adopted pursuant to these provisions may be restrained, corrected, or abated, as the case may be, by injunction or other appropriate proceedings as allowed by state law. Any permit issued under this subchapter may be suspended or revoked in accordance with G.S. § 153A-362 N.C.G.S. §160D-1115.

(B) Any person who violates any of the provisions of this subchapter shall be subject to a civil penalty for each violation as set out by ordinance for enforcement of county ordinances. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation. Each day of a continuing violation shall constitute a separate violation.

(C) Any person who knowingly or willfully violates this subchapter or who knowingly or willfully initiates or continues unapproved actions shall be guilty of a misdemeanor punishable as set out by ordinance for enforcement of county ordinances.

(Ord. 2008-01, passed 7-21-2008) **Penalty, see § 110.99**

BILLIARD PARLORS

§ 110.25 LICENSES.

No person shall maintain or operate billiard tables of any size regardless of whether or not a charge is made for the maintenance or operation, and no person shall maintain or operate a pool or billiard table or any other similar table for any game or play for which a charge is directly or indirectly made without a license therefore issued by the Tax Collector. This provision does not apply to the tables located in private homes or premises owned and operated by fraternal organizations having a national charter, American Legion Posts, churches, YMCAs, charitable organizations as defined by the Internal Revenue Code, and organizations to which a municipality or county contributes any portion of the operating expense. Violation of this Section shall be subject to monetary fines and injunctive relief as provided in §10.99 herein. A violation of this Section shall not be punishable as a criminal offense pursuant to N.C.G.S. §153A-123(b1).

(Ord. passed 3-5-1979) **Penalty, see § 110.99**

§ 110.32 POSTING, DEFACING, OR DESTROYING THE LICENSE.

Each billiard table so licensed shall receive a number and receipt from the Tax Supervisor, and it shall be the duty of each licensee to attach the numbered license to the table and display the license at all times. No person shall post any such license or permit the same to be posted upon any table other than that for which the license was issued. No person shall knowingly deface or destroy the license. Violation of this Section shall be subject to monetary fines and injunctive relief as provided in §10.99
§ 110.34 PROHIBITIONS TO BE OBSERVED BY LICENSEE AND EMPLOYEES.

No licensee and no employee of any such licensee shall:

(A) Suffer or permit any dice to be thrown for money or for anything of value, or suffer or permit any cards, raffles, or other game of chance, or any form of gambling in the place designated by the licensee as the location of licensed billiard tables, or in any yard, garden, or other place appertaining to the place or connected therewith;

(B) Suffer or permit the premises upon which the licensed billiard tables are located to become disorderly;

(C) Permit any narcotic drugs or controlled substances as defined by the North Carolina General Statutes to be sold or to consumed on the premises where the licensed billiard tables are located;

(D) Employee in carrying on the business associated with the licensed billiard tables any person who has been convicted of a felony, a misdemeanor involving moral turpitude, or convicted of unlawfully selling alcoholic beverage or narcotic drugs, or any person who is hereafter convicted of operating a lottery, within two years of the conviction;

(E) Permit intoxicating liquors, wine, beer, or any other fermented malt beverage to be sold or consumed on the premises where the licensed billiard tables are located; and/or

(F) Fail to maintain the premises upon which licensed billiard tables are located totally free of all intoxicating liquors, wine, beer, or any other fermented malt beverage and totally free of any and all controlled substances as defined by the North Carolina General Statutes or any other narcotic drugs.

Violation of this Section shall be subject to monetary fines and injunctive relief as provided in §10.99 herein. A violation of this Section shall not be punishable as a criminal offense pursuant to N.C.G.S. §153A-123(b1).

(Ord. passed 3-5-1979) Penalty, see § 110.99

§ 110.41 HOURS OF OPERATION.

It shall be unlawful for the licensee hereunder, and it shall also be unlawful for the owner, operator, or manager of any establishment wherein licensed billiard tables as defined herein are located to permit the establishment to be open to the general public or operating between the hours of 12:00 a.m. and 8:00 a.m. the following day, Mondays through Fridays, and on Sundays. It shall also be unlawful for the persons to permit the establishments to be opened to the public or operating on Sundays, except between the hours of 1:00 p.m. and 12:00 a.m. Violation of this Section shall be subject to monetary fines and injunctive relief as provided in §10.99 herein. A violation of this Section shall not be punishable as a criminal offense pursuant to N.C.G.S. §153A-123(b1).

(Ord. passed 3-5-1979) Penalty, see § 110.99

§ 110.42 MINORS.

It shall be unlawful for any licensee hereunder and it shall also be unlawful for any person having charge of or control of any pool room or billiard room open to the public to admit into the room any person under the age of 16 years. The terms POOL ROOM and BILLIARD ROOM as used in this section are defined to mean the premises upon which licensed billiard tables are located. Violation of this Section shall be subject to monetary fines and injunctive relief as provided in §10.99 herein. A violation of this Section shall not be punishable as a criminal offense pursuant to N.C.G.S. §153A-123(b1).
§ 110.99 PENALTY.
(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.
(B) Any person who violates any provision of §§ 110.25 through 110.42 shall be guilty of a misdemeanor which is punishable by a fine not to exceed $50 or imprisonment for not more than 30 days. Each day's continuing violation is a separate and distinct offense.

(Ord. passed 3-5-1979)

Section 15. Chapter 111 of the Lincoln County Code of Ordinances is amended as follows:

§ 111.01 PROHIBITED ACTS.
(A) Except as otherwise provided herein, no person shall enter or remain in or upon any private residence or premises within the county, having not been requested or invited by the occupant or occupants thereof, for the purpose of soliciting the immediate or future purchase or sale of goods, merchandise, services, or any other thing of value when a “No Solicitation”, “No Trespassing”, or similar sign is posted at or near the entrance to such premises.

(B) For purposes of this section, “premises” shall include any subdivision, mobile home park, or other multifamily development.

(C) Penalty. Violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in §10.99 herein.

(Ord. passed 10-4-2004; Am. Ord. 2010-1A, passed 5-3-2010)

Section 16. Chapter 112 of the Lincoln County Code of Ordinances is amended as follows:

§ 112.02 FRANCHISE REQUIRED.
(A) Permit required. No person, either as owner, agent, or otherwise, shall furnish, operate, conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the business or service of emergency and/or non-emergency transportation of patients within the county unless the person holds a valid permit pursuant to G.S. § 131E-156, for each ambulance used in the business or service issued by the State Department of Health and Human Services, Office of Emergency Medical Services, and has been granted a franchise for the operation of the business or service by the county pursuant to this chapter.

(B) Certification required. No person shall permit an ambulance to be operated when transporting a patient within the county unless the crew consists of a minimum of one individual that holds a currently valid certificate as a medical responder and at least one individual that holds a currently valid certificate as an Emergency Medical Technician – Basic, Intermediate, or Paramedic as defined by the United States Department of Transportation and hold current license, certification or appropriate registration in the state and are affiliated with the County EMS System.

(C) Franchise required. No person, either as owner, agent, or otherwise, shall furnish, operate, conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the business or service of medical first responder, ambulance service, or other pre-hospital emergency medical services organization unless granted a franchise for the operation of the business or service by the county pursuant to this chapter.
(D) **No franchise required.** No franchise shall be required for:

1. Any entity rendering assistance to a franchised ambulance service in the case of a major catastrophe, mutual aid, or emergency with which the services franchised by the county are insufficient or unable to cope;
2. Any entity operated from a location or headquarters outside the county in order to transport the patients who are picked up beyond the limits of the county, or to pick up patients within the county for transporting to locations outside the county; or
3. Apparatus owned and operated by any agency of the United States government, the state, or the county.

(D) **Penalty.** The operation of an ambulance without a valid permit or after a permit has been denied, suspended, or revoked or without appropriate credentialed staffing as required by N.C.G.S. § 131E-158, shall constitute a Class 1 misdemeanor pursuant to N.C.G.S. § 131E-161.

(Ord. passed 10-6-2003) **Penalty, see § 10.99**

§ 112.03 APPLICATION FOR FRANCHISE.

Application for a franchise to operate ground ambulances, convalescent ambulances, wheel chair transport vehicles, a medical responder or other pre-hospital emergency medical services organization in the county shall be made by the provider upon the forms as may be prepared or prescribed by the county and shall contain:

(A) The name and address of the provider and the owner of any apparatus;
(B) The trade or other fictitious names, if any, under which the applicant does business, along with a certified copy of an assumed name certificate stating the name or articles of incorporation;
(C) A resume of the training and experience of all personnel associated with the applicant in the care of patients;
(D) A full description of the type and level of service to be provided including the location of the place or places from which it is intended to operate, the manner in which the public will be able to obtain assistance and how apparatus will be dispatched;
(E) An audited financial statement of the applicant as the same pertains to the operations in the county, the financial statement to be in the form and in the detail as may be required by the county;
(F) A description of the applicant's capability to provide 24-hour emergency and non-emergency coverage, seven days per week for the district covered by the franchise applied for, and an accurate estimate of the minimum and maximum times for a response to calls within the district; and
(G) Any information the county shall deem reasonably necessary for a fair determination of the capability of the applicant to provide pre-hospital services in the county in accordance with the requirements of state laws and the provisions of the regulation.

(Ord. passed 10-6-2003)

§ 112.12 ENFORCEMENT.

(A) The County Director of Emergency Medical Services, operating under the supervision and direction of the County Manager, shall be the enforcing agency for the regulations contained in the ordinance.

(B) The office will:

1. Receive all franchise proposals from potential providers;
2. Study each proposal for conformance to this chapter;
3. The Quality Management Peer Review Committee will recommend to the Board of Commissioners, through the County Manager, the award of franchise(s) to the applicant(s) submitting the best proposal(s);
(4) Inspect the premises, vehicles, equipment, and personnel of franchise holders to assure compliance to this chapter and perform any other inspections that may be required;

(5) The Quality Management Peer Review Committee will recommend to the Board of Commissioners, through the County Manager, the temporary or permanent suspension of a franchise in the event of noncompliance with the franchise terms of this chapter. Additionally, recommend the imposition of misdemeanor or civil penalties as provided therein;

(6) Ensure by cooperative agreement with other services or agencies the continued service in a district where a franchise has been suspended;

(7) Receive monthly reports from franchise holders and consolidate the same into a quarterly summary for review by the Quality Management Peer Review Committee and the County;

(8) Receive complaints from the public, enforcement agencies, and other franchise holders regarding franchise infractions. Review complaints with the committee and execute corrective action under the recommendation of the committee;

(9) With the approval of the committee, recommend improvements to the county, which will ensure a higher degree of quality medical services;

(10) Maintain all records required by this chapter and other applicable county regulations;

(11) Perform such of the above functions as may be requested by any municipality within the county; and

(12) Serve as staff to the Lincoln County Emergency Medical Services Quality Management Peer Review Committee on all matters that pertain to the committee.

(Ord. passed 10-6-2003)

§ 112.14 LINCOLN COUNTY EMERGENCY MEDICAL SERVICES QUALITY MANAGEMENT PEER REVIEW COMMITTEE.

The Lincoln County Emergency Medical Services Quality Management Peer Review Committee which was appointed by the Board of Commissioners, will have the responsibility and duty of advising the Director, County Emergency Medical Services, on matters relating to the enforcement of this chapter as specified in § 112.12 and shall develop and recommend for approval by the Board of Commissioners the standards of care, policies, procedures, and actions which will maintain and improve the quality of emergency medical services and pre-hospital care for the residents of the county.

(Ord. passed 10-6-2003)

Section 17. Chapter 113 of the Lincoln County Code of Ordinances is amended as follows:

§ 113.03 LICENSE REQUIRED.

It is unlawful for any person, firm, or corporation to establish or conduct a business of pawnbroker unless the person, firm, or corporation has procured a license to conduct business in compliance with the requirements of this chapter N.C. General Statutes, Chapter 66, Article 45. Every person, firm, or corporation, their guests or employees, who shall knowingly violate any of the provisions of this Part, shall, on conviction thereof, be deemed guilty of a Class 2 misdemeanor pursuant to N.C.G.S. §66-396. If the violation is by an owner or major stockholder or managing partner of the pawnshop and the violation is knowingly committed by the owner, major stockholder, or managing partner of the pawnshop, then the license of the pawnshop may be suspended at the discretion of the Court pursuant to N.C.G.S. §66-396.

(Ord. passed 8-5-1990) Penalty, see § 113.99

§ 113.05 RECORD KEEPING REQUIREMENTS.
(A) Every pawnbroker shall keep consecutively numbered records of each and every pawn transaction, which shall correspond in all essential particulars to a detachable pawn ticket or copy thereof attached to the record.

(B) The pawnbroker shall, at the time of making the pawn or purchase transaction, enter upon the pawn ticket a record of the following information which shall be typed or written in ink and in the English language:

1. A clear and accurate description of the property, including model and serial number if indicated on the property;
2. The name, residence address, phone number, and date of birth of pledgor;
3. Date of the pawn transaction;
4. Type of identification and the identification number accepted from the pledgor;
5. Description of the pledgor including approximate height, weight, sex, and race;
6. Amount of money advanced;
7. The date due and the amount due;
8. All monthly pawn charges, including interest, annual percentage rate on interest, and total recovery fee; and
9. Agreed upon "stated value" between pledgor and pawnbroker in case of loss or destruction of pledged item; unless otherwise noted, "stated value" is the same as the loan value.

(C) The following shall be printed on all pawn tickets:

1. The statement that, "Any personal property pledged to a pawnbroker within this state is subject to sale or disposal when there has been no payment made on the account for a period of 60 days past maturity date of the original contract. No further notice is necessary."
2. The statement that, "The pledgor of this item attests that it is not stolen, has no liens or encumbrances, and is the pledgor's to sell or pawn."
3. The statement that, "The item pawned is redeemable only by the bearer of this ticket or by identification of the person making the pawn."
4. A blank line for the pledgor's signature and the pawnbroker's signature or initials.

(D) The pledgor shall sign the pawn ticket and shall receive an exact copy of the pawn ticket which shall be signed or initialed by the pawnbroker or any employee of the pawnbroker. These records shall be available for inspection and pickup each regular workday by the Sheriff or his or her designee. These records shall be a correct copy of the entries made of the pawn or purchase transaction and shall be carefully preserved without alteration, and shall be available during regular business hours.

(E) Except as otherwise provided in this chapter, any person presenting a pawn ticket to a pawnbroker is presumed to be entitled to redeem the pledged goods described on the ticket.

(F) **Penalties.** Every person, firm, or corporation, their guests or employees, who shall knowingly violate any of the provisions of this Part, shall, on conviction thereof, be deemed guilty of a Class 2 misdemeanor pursuant to N.C.G.S. §66-396. If the violation is by an owner or major stockholder or managing partner of the pawnshop and the violation is knowingly committed by the owner, major stockholder, or managing partner of the pawnshop, then the license of the pawnshop may be suspended at the discretion of the Court pursuant to N.C.G.S. §66-396.

(Ord. passed 8-5-1990) Penalty, see § 113.99

### § 113.07 Pawnbroker Transactions.

In every pawn transaction:

(A) The original pawn contract shall have a maturity date of not less than 30 days, provided that nothing herein shall prevent the pledgor from redeeming the property before the maturity date;
(B) Any personal property pledged to a pawnbroker is subject to sale or disposal when there has been no payment made on the account for a period of 60 days past maturity date of the original contact; provided pawnbroker is renewable if renewal is agreed upon by both parties;

(C) Every pawn ticket or receipt for the pawn shall have printed thereon the provisions of division (A) above which shall constitute: notice of the sale or disposal, notice of intention to sell or dispose of the property without further notice, and consent to the sale or disposal. The pledgor thereby forfeits all right, title, and interest of, in, and to the pawned property to the pawnbroker who thereby acquires absolute title to the same, whereupon the debt is satisfied and the pawnbroker may sell or dispose of the unredeemed pledges as his or her own property. Any sale or disposal of property under this section terminates all liability of the pawnbroker and vests in the purchaser the right, title, and interest of the borrower and pawnbroker;

(D) If the borrower loses his or her pawn ticket, he or she shall not thereby forfeit his or her right to redeem, but may, before the lapse of the redemption period, make an affidavit with indemnification for the loss. The affidavit shall describe the property pawned and shall take the place of the lost pawn ticket unless the pawned property has already been redeemed with the original pawn ticket; and

(E) A pledgor is not obligated to redeem pledged goods or make any payment on a pawn transaction.

(F) Penalties. Every person, firm, or corporation, their guests or employees, who shall knowingly violate any of the provisions of this Part, shall, on conviction thereof, be deemed guilty of a Class 2 misdemeanor pursuant to N.C.G.S. §66-396. If the violation is by an owner or major stockholder or managing partner of the pawnshop and the violation is knowingly committed by the owner, major stockholder, or managing partner of the pawnshop, then the license of the pawnshop may be suspended at the discretion of the Court pursuant to N.C.G.S. §66-396.

(Ord. passed 8-5-1990) Penalty, see § 113.09

§ 113.08 PROHIBITIONS.

A pawnbroker shall not:

(A) Accept a pledge from a person under the age of 18 years;

(B) Make any agreement requiring the personal liability of a pledgor in connection with a pawn transaction;

(C) Accept any waiver, in writing or otherwise, of a right or protection accorded a pledgor under this chapter;

(D) Fail to exercise reasonable care to protect pledged goods from loss or damage;

(E) Fail to return pledged goods to a pledgor upon payment of the full amount due the pawnbroker on the pawn transaction. In the event the pledged goods are lost or damaged while in the possession of the pawnbroker, it shall be the responsibility of the pawnbroker to replace the lost or damaged goods with merchandise of like kind and equivalent value. In the event the pledgor and pawnbroker cannot agree as to replacement, the pawnbroker shall reimburse the pledgor in the amount of the value agreed upon pursuant to § 113.05;

(F) Take any article in pawn, pledge, or as security from any person, which is known to the pawnbroker to be stolen unless there is a written agreement with local or state police;

(G) Sell, exchange, barter, or remove from the pawnshop any goods pledged, pawned, or purchased earlier than 48 hours after the transaction, except in case of redemption by pledgor or items purchased for resale from wholesalers;

(H) Operate more than one pawnshop under one license, and the shop must be at a permanent place of business; or

(I) Take as pledged goods any manufactured mobile home, recreational vehicle, or motor vehicle other than a motorcycle.
**Penalties.** Every person, firm, or corporation, their guests or employees, who shall knowingly violate any of the provisions of this Part, shall, on conviction thereof, be deemed guilty of a Class 2 misdemeanor pursuant to N.C.G.S. §66-396. If the violation is by an owner or major stockholder or managing partner of the pawnshop and the violation is knowingly committed by the owner, major stockholder, or managing partner of the pawnshop, then the license of the pawnshop may be suspended at the discretion of the Court pursuant to N.C.G.S. §66-396. A violation of Section (F) shall not be enforced hereunder and shall be instead be prosecuted under N.C.G.S. §14-71 pursuant to N.C.G.S. §66-396(b).

(Ord. passed 8-5-1990) **Penalty, see § 113.99**

**ELECTRONIC RECORD KEEPING AND REPORTING REQUIREMENTS**

§ 113.22 PAWNBROKERS.

Pawnbrokers shall keep the records required by N.C.G.S. § 66-391 in an electronic format and shall report such records electronically in a manner authorized by the Lincoln County Sheriff’s Office. Every person, firm, or corporation, their guests or employees, who shall knowingly violate any of the provisions of this Part, shall, on conviction thereof, be deemed guilty of a Class 2 misdemeanor pursuant to N.C.G.S. §66-396. If the violation is by an owner or major stockholder or managing partner of the pawnshop and the violation is knowingly committed by the owner, major stockholder, or managing partner of the pawnshop, then the license of the pawnshop may be suspended at the discretion of the Court pursuant to N.C.G.S. §66-396.

(Ord. passed 4-21-2014)

§ 113.23 CASH CONVERTERS.

Cash converters shall keep the records required by N.C.G.S. § 66-392 in an electronic format and shall report such records electronically in a manner authorized by the Lincoln County Sheriff’s Office. Every person, firm, or corporation, their guests or employees, who shall knowingly violate any of the provisions of this Part, shall, on conviction thereof, be deemed guilty of a Class 2 misdemeanor pursuant to N.C.G.S. §66-396. If the violation is by an owner or major stockholder or managing partner of the pawnshop and the violation is knowingly committed by the owner, major stockholder, or managing partner of the pawnshop, then the license of the pawnshop may be suspended at the discretion of the Court pursuant to N.C.G.S. §66-396.

(Ord. passed 4-21-2014)

§ 113.24 DEALERS.

Dealers shall keep the records required by N.C.G.S. § 66-410 in an electronic format and shall file such records electronically in a manner authorized by the Lincoln County Sheriff’s Office. **Penalties.** Every person, firm, or corporation, their guests or employees, who shall knowingly violate any of the provisions of this Part, shall, on conviction thereof, be deemed guilty of a Class 2 misdemeanor pursuant to N.C.G.S. §66-413. In addition, any dealer so convicted shall be ineligible for a dealer’s permit for a period of three (3) years from the date of conviction pursuant to N.C.G.S. §66-413. Each and every violation shall constitute a separate and distinct offense.

(Ord. passed 4-21-2014)

§ 113.25 SECONDARY METALS RECYCLERS.

(A) Secondary metals recyclers shall keep the receipts and the records required by N.C.G.S. §§ 66-421 and 66-422 in an electronic format and shall transfer such receipts and records electronically directly to the Lincoln County Sheriff’s Office in a manner authorized by said Sheriff’s Office.
(B) Violations. Pursuant to N.C.G.S. § 66-429, the following violations shall apply to this subsection:

1) Unless the conduct is covered by some other provision of law providing greater punishment, any person knowingly and willfully violating any of the provisions of this subsection shall be guilty of a Class 1 misdemeanor for a first offense. A second or subsequent violation of this subsection is a Class I felony.

2) Revocation of Permits. — If the owner or the employees of a fixed site are convicted of an aggregate of three or more violations of this subsection within a ten (10) year period, the permit associated with that fixed site shall be immediately revoked by the Sheriff for a period of six (6) months. Any attempt to circumvent this subsection by procuring a permit through a family member shall result in extension of the revocation period for an additional 18 months.

(Ord. passed 4-21-2014)

§ 113.99 PENALTY.

(A) Any violation of this Section shall be enforced pursuant to Pursuant to G.S. § 91A-11 N.C. General Statutes, Chapter 66, Article 45, every person, firm, or corporation, their guests or employees, who shall knowingly violate any of the provisions of this chapter, shall, on conviction thereof, be deemed guilty of a misdemeanor, and shall be fined a sum not to exceed $500 for each offense, and at the discretion of the court, may be imprisoned for a period of time not to exceed six months. If the violation is by an owner or major stockholder or managing partner of the pawnshop and the violation is knowingly committed by the owner, major stockholder, or managing partner of the pawnshop, then the license of the pawnshop may be suspended at the discretion of the court.

—(B) The provision of division (A) above shall not apply to violations of § 113.08(F), which shall be prosecuted under the state criminal statutes.

—(C) Any contract of pawn the making or collecting of which violates any provision of this chapter, except as a result of accidental or bona fide error of computation, shall be void, and the license shall have not right to collect, receive, or retain any interest or fee whatsoever with respect to the pawn.

Section 18. Chapter 114 of the Lincoln County Code of Ordinances is amended as follows:

§ 114.01 PUBLIC DISPLAY OF SEXUALLY EXPLICIT MATERIAL IN ESTABLISHMENTS FREQUENTED BY MINORS PROHIBITED.

(A) The Board of Commissioners does hereby find that there exists an increasing trend in the display of sexually explicit material in commercial establishments within the county in such a manner that the material is within the open view of minors and is thereby easily accessible to them. The Board of Commissioners further find that the public display of the material is adverse and detrimental to the health, safety, and welfare of its citizens, particularly minors, and the peace and dignity of the county, and as a matter of policy the display should be regulated under the police power of this county.

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

KNOWINGLY. Having knowledge of the character and content of the cover of the material, or failure to exercise reasonable inspection which would disclose the character and content of the cover of the material.

MINOR. Any person under the age of 18 years.

PERSON. Any individual, partnership, firm, association, corporation, or other legal entity.

PUBLIC DISPLAY. The placing, exposing, or exhibiting of sexually explicit material in or on a newsstand, display rack, window, showcase, display case, or similar place so that the material is easily visible from a public thoroughfare, sidewalk, or from that portion of the interior of any business or
commercial establishment frequented by minors or where minors are or may be invited as part of the general public.

SEXUALLY EXPLICIT MATERIAL. Any book, magazine, or newspaper which contains on the cover any photograph, picture, drawing, depiction, or other visual representation showing human sexual intercourse, masturbation, homosexual acts, direct physical stimulation or touching of unclothed genitals or pubic areas of the human male or female, flagellation or torture by or upon a person who is nude or clad in revealing or bizarre costumes, uncovered or less than opaquely covered post pubertal human genitals or pubic areas.

(C) It shall be unlawful for any person to knowingly place on public display sexually explicit material in any business establishment frequented by minors or where minors are or may be invited as a part of the general public. However, the sexually explicit material may be displayed on any shelf, rack, stand, or ledge which has an opaque screen or border of sufficient height so that only the title of any such material is visible.

(D) Violation and Penalty. Any person or business found to be displaying material harmful to minors, including the public display of sexually explicit material, if having custody, control, or supervision of a commercial establishment and knowing the character or content of the material, he/she/it displays material that is harmful to minors at that establishment so that it is open to view by minors as part of the invited general public, shall be punishable under N.C.G.S. §14-190.14 and any violation herein shall be enforced as a Class 2 misdemeanor. Each day’s violation shall be considered a separate offense.

(E) In addition to the criminal penalties herein provided, violations of this section may be enforced by the institution of proceedings in the form of a civil action for equitable and injunctive relief to restrain or prohibit the violation. The proceeding shall be brought in the County Superior Court. The institution of any proceeding for equitable or injunctive relief under this section shall not relieve any party to the proceedings from any criminal penalty prescribed for violations of any part of this section.

(F) This section shall not apply within the City of Lincolnton, North Carolina.

(G) This section shall be in full force and effect beginning the 8-7-1980.

Penalty, see § 114.99

REPEALED

MASSAGE PARLORS

§ 114.17 APPLICATION FOR LICENSE.
—(A) Any person desiring to engage in the business, trade, or profession of masseur or masseuse or the operation or carrying on of any of the businesses, trades, professions, occupations, or callings mentioned in § 114.15 shall, before engaging in the business, trade, profession, occupation, or calling, file an application for a license addressed to the County Manager and the Board of Commissioners.
—(B) The application shall be in writing and shall set forth the following:
— (1) Name and address of the applicant. If the applicant be a corporation, the address or addresses of the corporation and its officers; and
— (2) Qualifications. These must be plainly stated and must be submitted together with required exhibits annexed to the application proving the applications.

Penalty, see § 114.99

§ 114.18 QUALIFICATIONS OF APPLICANT FOR LICENSE.
—(A) Generally. An applicant hereunder, prior to making application for a license, must have the following qualifications.
—(B) Specifically.
§ 114.19 ISSUANCE OF LICENSE.
If the applications are submitted in proper form and are approved the Board of Commissioners, then the County Tax Supervisor is authorized to issue a business license to the applicant.

(Ord. passed 3-17-1975)

§ 114.20 AUTHORITY TO EMPLOY AND/OR TRAIN PERSONNEL.
Any applicant granted a license hereunder shall have the authority to train masseurs and masseuses under his or her supervision in his or her studio or establishment, provided that the licensee shall furnish to the Sheriff’s Department, there to be kept by the Department, a health certificate of the employee from a medical doctor.

(Ord. passed 3-17-1975)

§ 114.21 NAMES OF EMPLOYEES TO BE FILED WITH COUNTY SHERIFF.
It shall be the duty of all persons holding a license hereunder to file with the County Sheriff the names of all employees, their home addresses, home telephone numbers, and places of employment. Changes in the list of employees with the names of new employees must be filed with the County Sheriff within seven days from the date of any such change.

(Ord. passed 3-17-1975)

§ 114.22 ENFORCEMENT AND REVOCATION OF LICENSE.

(A) It shall be the duty of the County Sheriff to inspect, periodically, the premises licensed under this subchapter, to determine any violations of its provisions, and to otherwise enforce this subchapter.

(B) Whenever the County Sheriff shall have good cause to believe there exists grounds for revocation of any license acquired hereunder, he or she shall submit a written recommendation of revocation to the Board of Commissioners and by registered mail shall forward, at least ten days prior to hearing, a copy of his or her recommendations to the licensee. The recommendation shall state the specific grounds for the revocation of the license.

(C) Cause for revocation of the license shall exist for the failure of the licensee to perform any duty required by this subchapter, for violation of any provision of this subchapter, or for conviction of the licensee of any crime, involving moral turpitude. Grounds shall also exist if, by reason of the nature or the manner or place in which the licensee conducts business, a nuisance and menace to good order, public health, safety, or morals is created.

(D) The Board of Commissioners, whenever it has good cause to believe there exists grounds for revocation of any license acquired hereunder, may, upon its own motion, set a hearing as hereinabove provided, to show good cause why the license should not be revoked. Written notice stating the specific
alleged grounds for revocation shall be forwarded by registered mail to the licensee at least ten days prior to the hearing, which shall be held in exactly the same manner as if initiated by the County Sheriff.

(E) Prior to revocation of any license by the Board of Commissioners, the licensee shall be given an opportunity to appear to be heard, either personally or through his or her attorney to rebut any evidence against him or her, and to present evidence and witnesses in his or her defense. If the licensee fails to show good cause why his or her license should not be revoked, the Board of Commissioners may revoke the license, upon a finding by the Board of Commissioners of a cause for revocation.

(Ord. passed 3-17-1975)

§ 114.23 HOURS OF OPERATION.
No masseur or masseuse or any person or party engaging in any of the businesses licensed by this subchapter shall engage in the business, trade, profession, occupation, or calling except within and between the hours of 8:00 a.m. and 10:00 p.m. Nor shall any operator of a massage parlor, or establishment or business above enumerated and not specifically accepted hereunder, operate the same except within and between the aforesaid hours.

(Ord. passed 3-17-1975) Penalty, see § 114.99

§ 114.24 TREATMENT OF PERSONS OF OPPOSITE SEX RESTRICTED.
It shall be unlawful for any person holding a license under this subchapter to treat a person of the opposite sex, except upon a signed order of a licensed physician, osteopath, chiropractor, or registered physical therapist, which order shall be dated and shall specifically state the number of treatments, not to be in excess of ten. The date and time of each treatment given and the name of the operator shall be entered on the order by the establishment where the treatments are given and shall be subject to inspection by the County Sheriff’s Department at any reasonable time. The requirements of this section shall not apply to treatments given in residence of a patient, the office of a licensed physician, osteopath, or registered physical therapist, chiropractor, or in an established and licensed hospital or sanitarium.

(Ord. passed 3-17-1975) Penalty, see § 114.99

§ 114.25 PATRONAGE OF MASSAGE PARLORS BY MINORS.
(A) Restricted. It shall be unlawful for any person under the age of 18 to patronize any massage parlor or similar establishment licensed hereunder unless the person carries with him or her at the time of the patronage a written order directing the treatment to be given signed by a regularly licensed physician.

(B) Duty of operator. It shall be the duty of the operator of the massage parlor or similar establishment licensed hereunder to determine and have verification of the age of the person patronizing the establishment and violations of this section shall be grounds for the revocation of the license of the establishment.

(Ord. passed 3-17-1975) Penalty, see § 114.99

§ 114.26 MASSAGES BY UNLICENSED PERSONS.
Massages as permitted by this section may be given by persons not holding a license as masseur or masseuse only if the massages are given under the direct supervision of a person having a license as a masseur or masseuse who shall be in the same room where the massage is being administered during the entire time of the giving of the massage.

(Ord. passed 3-17-1975) Penalty, see § 114.99

§ 114.27 UNLAWFUL TO CONDUCT BUSINESS WITHOUT A LICENSE.
§ 114.28 APPLICABILITY.
— The provisions of this subchapter with respect to the original issuance of a license shall not apply to those engaged in the businesses, trades, professions, occupations, or callings enumerated above who have been regularly licensed by the county or who have been so engaged in the county for a period of three years or more prior to the adoption of this subchapter; provided, however, that the provisions of this section shall apply to all the businesses, trades, professions, occupations, or callings from and after the date of the adoption of this subchapter and all the businesses, trades, professions, occupations, or callings shall be properly licensed as provided herein.

§ 114.29 EFFECTIVE DATE.
— This subchapter shall be in full force and effect from 3-20-1975.

§ 114.99 PENALTY.
— (A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.
— (B) Violation of § 114.01 shall constitute a misdemeanor. Any person convicted of violating this section shall be punished by a fine not to exceed $50 or by imprisonment not to exceed 30 days or both. Each day during which a violation continues shall be determined a separate and distinct offense.
— (C) Violations of § 114.23 shall be considered under this code as an offense and persons found guilty of these violations shall be guilty of a misdemeanor and shall be fined not more than $50, or imprisoned for not more than 30 days, as provided by G.S. § 14-4.
— (D) Persons found guilty of any such violation of § 114.27 shall be guilty of a misdemeanor and shall be fined not more than $50 or imprisoned for not more than 30 days for each violation.

(Ord. passed 3-17-1975; Ord. passed 7-7-1980)

Section 19. Chapter 115 of the Lincoln County Code of Ordinances is amended as follows:

§ 115.01 DRINKING AND LITTERING.
( A) It shall be unlawful for a person to drink beer while standing, walking, or riding on any of the highways and roads of the county, and, likewise, it shall be unlawful to drink beer in any of the parking lots, public or private, in the county.
( B) It shall be unlawful for any person to drink whiskey or alcoholic beverages while standing, walking, or riding on the highways and roads of the county, and, likewise, it shall be unlawful to drink whiskey or other alcoholic beverages in parking lots, public or private, in the county.
( C) It shall be unlawful for any person to discard empty beer cans, beer bottles, and whiskey bottles in any of the parking lots, public or private, in the county, or litter any of the properties in the county
other than the property owned individually by the person discarding and littering beer cans, beer bottles, and whiskey bottles.

(D) This section shall apply to the county, other than the corporate limits of the City of Lincolnton for the reason that the City of Lincolnton has a similar ordinance applying to the corporation of Lincolnton.

(E) Penalty. Violation of this Section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4.

§ 115.99 PENALTY.
—Violation of § 115.01 shall constitute a misdemeanor and any person convicted shall be subject to punishment as provided in N.C.G.S. § 14-3.1 and shall pay a fine not in excess of $50 and/or a jail sentence not in excess of 30 days.

Section 20. Chapter 130 of the Lincoln County Code of Ordinances is amended as follows:

§ 130.01 PROTECTION OF MARKERS AND OPERATION OF BOATS ON LAKE NORMAN.
(A) It shall be unlawful for any person to move, remove, deface, damage or destroy, or obliterate any navigational marker, safety marker, danger marker, or information sign or structure erected upon or in the waters of Lake Norman, or upon the immediate shores thereof, by the Lake Norman Commission acting as the joint regulating authority of Catawba, Iredell, Lincoln, and Mecklenburg Counties.

(B) Pursuant to N.C.G.S. § 75A-14.1, it shall be unlawful for any person to operate any water-borne craft upon the waters of Lake Norman within 150 feet of any marked boat launching area, dock, pier, marina, boat storage structure, or private or public boat service areas, at greater than "No Wake" speed.

(C) No person operating or responsible for the operation of a water-borne craft shall permit it to enter any marked swimming area upon the waters of Lake Norman.

(D) Definitions.

1. GREATER THAN "NO WAKE" speed is defined as speed which shall create an appreciable or damaging wake, or shall risk injury to life or property.

2. Where used herein, the word “MARKED” shall mean in accordance with the Uniform Waterway Marking System as adopted by the State Wildlife Commission and its amendments thereto.

(E) Penalty. Pursuant to N.C.G.S. §75A-18, a person who violates this Section is responsible for an infraction as defined in N.C.G.S. §14-3.1 and shall pay a fine of fifty dollars ($50.00).

Section 21. Chapter 150 of the Lincoln County Code of Ordinances is amended as follows:

LINCOLNTON-LINCOLN COUNTY REGIONAL AIRPORT ZONING

§ 150.033 AIRPORT ZONE HEIGHT LIMITATIONS.
(A) Except as otherwise provided in this subchapter, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow, in any zone created by this subchapter to a height in excess of the applicable height limit herein established for that zone.
The applicable height limitations are hereby established for each of the zones in question as follows:

1. Runway larger than utility with a visibility minimum greater than three-fourth mile nonprecision instrument approach zone. Slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline;

2. Transitional zones. Slope seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 100 feet above the airport elevation which is 878 feet above mean sea level;

3. Horizontal zone. Established at 100 feet above the airport elevation or at a height of 978 feet above mean sea level;

4. Conical zone. Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 100 feet above the airport elevation and extending to a height of 300 feet above the airport elevation; and

5. Excepted height limitations.
   a. Nothing in this subchapter shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree, to a height up to 50 feet above the surface of the land.
   b. Height shall be measured from the highest point on the ground along the periphery of the structure or tree to the highest point on the structure or tree.
   c. Nothing in this subsection shall be construed as prohibiting the construction of a wireless communication tower within the horizontal or conical zones provided that the applicant is able to demonstrate compliance with all Federal Aviation Administration (FAA) standards and regulations and receive approval from the FAA for the construction of the proposed tower.

6. Penalty. Any person found to be in violation of this subsection shall be subject to the penalties as provided in the Section 11.2 of the Lincoln County Unified Development Ordinance.

§ 150.034 USE RESTRICTION.
No use may be made of land or water within any zone established by this subchapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport. Any person found to be in violation of this subsection shall be subject to the penalties as provided in the Section 11.2 of the Lincoln County Unified Development Ordinance.

§ 150.036 PERMITS.
(A) Future uses.
   (1) Except as specifically provided in divisions (A)(1)(a) through (A)(1)(c) below, no material change shall be made in the use of land, and no structure or tree shall be erected, altered, planted, or otherwise established, in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If the determination is in the affirmative, the
permit shall be granted. No permit for a use inconsistent with the provisions of this subchapter shall be granted unless a variance has been approved in accordance with division (D) below.

(a) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 70 feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, the tree or structure would extend above the height limits prescribed for the zones.

(b) In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 70 feet of vertical height above the ground, except when the tree or structure would extend above the height limit prescribed for the approach zones.

(c) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 70 feet of vertical height above the ground, except when the tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for the transition zones.

(2) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction or alteration of any structure, or growth of any tree, in excess of any of the height limits established by this subchapter, except as set forth in § 150.033(B)(5). In the event a tree is allowed to grow in excess of the height limits established by this subchapter, except as set forth in § 150.033(B)(5), the tree shall be removed, topped, trimmed, or otherwise modified to bring into compliance with this subchapter. If the County Manager or his or her designee determines that the tree adversely affects the safe use of the airport, the county will pay for the direct cost to remove, top, trim, or otherwise modify the tree to bring into compliance with this subchapter.

(B) Existing uses. No permit shall be granted that would allow the establishment or creation of an airport obstruction that is a hazard to air navigation or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this subchapter, or any amendments thereto, or that it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

(C) Nonconforming uses abandoned or destroyed. Whenever the County Manager determines that a nonconforming tree or structure has been abandoned or more than 80% torn down, physically deteriorated, or decayed, no permit shall be granted that would allow the structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

(D) Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property not in accordance with the regulations prescribed in this subchapter, may apply to the Board of Adjustment for a variance from the regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. The variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this subchapter. Additionally, no application for variance to the requirements of this subchapter may be considered by the Board of Adjustment unless a copy of the application has been furnished to the County Manager for advice as to the aeronautical effects of the variance. If the County Manager does not respond to the application within 15 days after receipt, the Board of Adjustment may act on its own to deny the application.

(E) Obstruction marking and lighting. Any permit or variance granted may, if the action is deemed advisable to effectuate the purpose of this subchapter and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the Lincoln-Lincoln County Regional Airport Authority, at its own expense, to install, operate, and maintain thereon the marking and lights as may be necessary.
(F) **Permits.** The Director of Development Services Administrator (the “Director”) shall review all applications for development to ensure compliance with all regulations of this subchapter. All applications shall be complete prior to review by the Director Administrator. The Director Administrator, in his or her discretion, may request that additional information be submitted as necessary to ensure a thorough and complete review of the application. All applications shall be submitted with a nonrefundable fee in accordance with a fee schedule adopted by the Board of Commissioners.

(G) **Penalty.** Any person found to be in violation of this subsection shall be subject to the penalties as provided in the Section 11.2 of the Lincoln County Unified Development Ordinance.

(Ord. passed 11-5-2001) Penalty, see § 150.999

§ 150.037 ENFORCEMENT.

It shall be the duty of the County Manager to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Building Inspector upon a form published for that purpose. Applications required by this subchapter to be submitted to the County Manager shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the County Manager.

(Ord. passed 11-5-2001)

§ 150.040 JUDICIAL REVIEW.

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment may appeal to the Superior Court, as provided in G.S. § 63-34 N.C.G.S. 160D-1401.

(Ord. passed 11-5-2001)

LAND FARMING

§ 150.058 VIOLATIONS.

(A) Any person who shall dispose of or procure the disposal of any soil containing petroleum hydrocarbons in violation of the terms of this subchapter shall be guilty of a Class 3 misdemeanor, and may also be subject to additional penalties and fines pursuant to North Carolina General Statutes.

(B) Any other violation of this subchapter shall be a misdemeanor.

(C) Each day of a violation of this subchapter shall constitute a separate offense.

(D) In addition to the above provisions, this subchapter may be enforced by any appropriate equitable remedy authorized by G.S. § 153A-123, which equitable remedies shall include, but not limited to, injunction, order of abatement, a mandatory or prohibitory injunction, and any other orders of the court that may be necessary and lawful to enforce and carry out the provisions of this subchapter.

(Ord. passed - ) Penalty, see § 150.999

§ 150.060 ENFORCEMENT.

All persons who shall own, lease, or have possession of any property upon which petroleum-contaminated soil is located, or who have any interest in the property, or who shall be the agent, employee, or contractor of any such person, shall, prior to the engaging in the treatment or disposal technique known as land farming:

(A) Comply with all provisions of G.S. Chapter 143, Article 21A, as amended, and other applicable rules and regulations promulgated thereunder as they now exist and are hereafter amended;
(B) Comply with the provisions of all permits that may be issued by the state allowing disposal of petroleum-contaminated soils;

(C) Comply with all federal statutes, laws, rules, and regulations applicable to the disposal or remediation of petroleum-contaminated soils;

(D) Satisfy the County Health Department that they have so complied with the federal and state laws, rules, and regulations by submitting to the County Health Department the test results and data as it may require for determination that the materials proposed for land farming are suitable for the treatment technique and that the technique used has complied with all the federal and state laws, rules, and regulations;

(E) Submit to the County Health Department a sworn statement from an approved testing laboratory that the soil proposed for land farming is appropriate for that purpose as defined by the state regulations;

(F) Submit written acknowledgment from the State Department of Natural and Human Resources that the petroleum-contaminated soils have been determined to be nonhazardous and are appropriate for treatment by land farming;

(G) Certify to the County Health Department that the soil to be disposed of shall not be deposited in any form or fashion closer than:

1. One hundred feet from any public or private water supply including wells;
2. Two hundred feet from any stream, lake, river, or natural drainageway;
3. One hundred feet from any property line; and/or
4. Five hundred feet from any residence, school, hospital, playground, or recreational park area.

(H) Submit authorization to the County Health Department authorizing its agents and employees to go upon the property to make any investigation necessary to determine compliance.

(G) Penalties. Any person found to be in violation of this subsection shall be guilty of a Class 3 misdemeanor and may also be subject to additional penalties and fines pursuant to North Carolina General Statutes.

(Ord. passed - -) Penalty, see § 150.999

§ 150.061 TRANSPORTATION OF SOIL FOR LAND FARMING REGULATED.

(A) (1) Soils discovered in the county containing petroleum hydrocarbons, if appropriate, may be remediated by land farming in compliance with this subchapter and may be transported within the county to appropriate destinations in the county for remediation, here again, in compliance with this subchapter.

2. No soils contaminated with petroleum hydrocarbons originating outside of the county may be transported from a location outside of the county into the county for land farming purposes.

(B) Persons, firms, or corporations engaged in transporting petroleum contaminated soil in the county shall at all times have in their possession a manifest describing the soils being transported, the hydrocarbon contamination, the point of origination of the soils, and the destination of the soils, and be prepared to exhibit the manifest to the County Health Department, its agents, employees, and contractors, and anyone else authorized and designated to enforce this subchapter.

(C) Penalties. Any person found to be in violation of this subsection shall be guilty of a Class 3 misdemeanor and may also be subject to additional penalties and fines pursuant to North Carolina General Statutes.

(Ord. passed - -) Penalty, see § 150.999

LAKE NORMAN SURFACE ZONING

§ 150.077 FIXED FACILITIES ON OR NEAR THE WATERS OF LAKE NORMAN.
(A) Generally. Any facilities, structures, construction, or human-made improvement which are to be placed on, above, within, or adjacent to the waters of Lake Norman which by their placement affect the use of waters, to include, but not to be limited to, piers, floating pier extensions, floating boat houses, moorings or floats, marine railways, hoists and lifts, breakwaters, fillings, dredgings, signs, lighting, and overhead transmission lines, and public and private swimming areas and private bridges shall be subject to the provisions of this subchapter. All dimensional requirements herein, when reference is made to the water surface, shall be measured from the full pond level at contour elevation 760 feet above mean sea level, U.S.G.S. Datum.

(B) Piers. Pier facilities shall be located and constructed to remain within an area defined generally projection perpendicular to the shore at the lot corners and defined more specifically as follows.

1. A projection over the water shall be established at each of the two property corners on the shoreline. Each projection shall be perpendicular to a line connecting two points on the 760-foot contour line where a ten-foot radius from the property corner intersects with the 760-foot contour line.

2. The pier facility may extend over the water for a distance of 80 feet from the shore regardless of the depth; and may extend beyond 80 feet to a depth of ten feet measured at full pond or a maximum extension over the water of 120 feet from shore. However, in no event shall a pier facility, when located in a cove, extend more than one-third the width of the cove, measured from the shore at the point of the proposed construction to the nearest point on the opposite shore.

(C) Reflectors.

1. Shall have two white reflectors, a minimum of six inches above full pond elevation, on each further most corner of the extension of the pier into the water, reflecting light parallel to the shore in each direction and directly across the water in line with the shore from each corner; and

2. White reflectors shall be placed at intervals of 15 feet or less, six inches above the water, on each side of the pier beginning at its outermost extension into the water of Lake Norman, including all floats and other appurtenances, and extending to the 760-foot contour on the shoreline.

(D) Moorings and floats.

1. When placed in the lake for navigational purposes, shall be so placed only with the expressed written approval of the Lake Norman Marine Commission or State Wildlife Commission;

2. When placed for the purpose of mooring boats or other legal and authorized floating objects, the mooring shall be separated on every side form any other mooring by a distance of 50 feet;

3. Shall be located so as to permit unobstructed passage on the lake of through boats; and

4. Shall not be anchored in such a manner as to deny or obstruct in any manner access to the lake from boat docks, boat houses, or boat launching ramps.

(E) Marine railways.

1. Shall have permanent signs complying with the requirements of the uniform marking system designating the locations of the marine railway;

2. Shall not extend above the normal or natural lake bed at the time of construction more than 18 inches, between a horizontal measurement extending from the 760-foot contour to a water depth of 15 feet below the 760-foot contour; and

3. The location of railway and signs shall be approved by the Lake Norman Marine Commission for their effect on marine safety.

(F) Breakwaters. When constructed for the purpose of protecting docks, piers, or other facilities:

1. Shall be so placed as to protect the particular facility for its width only and shall not offer area protection which might overly obstruct passage on the lake;

2. Shall be located and marked so as not to be a hazard to boating at any time; and

3. Shall be approved by the Lake Norman Marine Commission through the submission of accurate plans for the breakwater and the location thereof showing the adjacent shoreline and facility to be protected.
(G) *Hoists and lifts.* Hoists and lifts shall, due to the unique nature of their construction, conform to all federal and state requirements applying thereto.

(H) *Filling.*

1. Shall be designed by a registered engineer and approved by the Lake Norman Marine Commission;
2. Shall not be placed above the water level without proper and adequate riprapping to prevent fill from being eroded into the lake;
3. Fill so placed shall be sufficiently compacted to reach 90% maximum dry density using the Standard Proctor Test, as defined by ASTN D698-66T; and
4. Shall not obstruct access to or be a hazard to passage on the lake or a nuisance to adjacent property owners.

(I) *Dredging.*

1. Shall not be conducted in such a way that the spoil therefrom is placed back in the lake thus reducing water depth in areas outside of the dredged area; and
2. Shall be reported to the Lake Norman Marine Commission prior to commencement.

(J) *Signs.* Other than navigational signs, should be constructed in such a manner as to be compatible with the adjacent visual qualities of the area in which they are located:

1. Shall not unduly obstruct the view of the lake for any adjacent lakeshore occupant;
2. Shall not be placed in the water nor within 25 horizontal feet of the water edge at elevation 760;
3. When lighted, shall have fixed nonmoving, indirect or internal lighting when necessary;
4. There shall be no off-site advertising signs placed or maintained so as to be visible from the lake; and
5. Off-site direction signs on the lake shore may be installed by the Lake Norman Marine Commission at the request and expense of the owner and/or commercial operator.

(K) *Lighting.*

1. Which offers navigational aid on Lake Norman, whether public or private, shall be approved by the Lake Norman Marine Commission;
2. When installed for purposes other than navigational, shall not be moving or flashing or colored in any manner, except a continuous nonflashing yellow light for insect control; and
3. Shall not be of such intensity as to cause night blindness for boat operators on the lake and not inhibit vision in any way.

(L) *Overhead transmission lines.* Overhead transmission lines shall be constructed to a minimum height of 48 feet as maximum deflection above the full pond level.

(M) *Public and private swimming areas.*

1. Shall not be defined in water beyond a depth of 15 feet;
2. In no event shall extend more than 80 feet from the shore, with exception to any public or private swimming area constructed by Duke Energy, its subsidiaries, or Lincoln County within the boundaries of Lake Norman;
3. Shall extend into the water so as to remain confined within a projection of the side lot lines of the lot on which the area is located, maintaining the side yard requirements of this or any other ordinance or regulation; and
4. Public swimming areas shall be, and private swimming areas may be, marked and protected in keeping with the State Wildlife Commission regulations, § IV per 12d.

(N) *Penalties.* Any violation of this subchapter shall be punishable as a Class 3 misdemeanor and shall be punishable by a fine not to exceed five hundred dollars ($500.00) per violation, pursuant to Session Law 1991-797.
§ 150.079 APPROVAL OF THE LAKE NORMAN MARINE COMMISSION.

In furtherance of any requirement of this subchapter concerning approval of the Lake Norman Marine Commission, information may be obtained from: Lake Norman Marine Commission, Suite 301, 1229 Greenwood Cliff, Charlotte, North Carolina, 28204 P.O. Box 2454, Cornelius, NC 28031; and written approval executed by its duly authorized officer or agent shall be made only after consideration by the Lake Norman Marine Commission at a regular or duly called special meeting of the Commission.

(Ord. passed 12-4-1972)

§ 150.080 EFFECTIVE DATE.

This subchapter shall be effective and in full force from and after the date of its passage, or incorporation into existing ordinances by all counties bordering on Lake Norman (Catawba County, Iredell County, Mecklenburg County, and Lincoln County), but shall remain in force thereafter in each county until specifically repealed or nullified by action of each of the counties respectively and after 30-days written notice to the Lake Norman Marine Commission.

(Ord. passed 12-4-1972)

§ 150.082 REVIEW AND APPROVAL.

The Administrator shall review all applications for zoning permits to ensure compliance with all regulations of this subchapter. All applications shall be complete prior to review by the Administrator. The Administrator in his or her discretion may request that additional information be submitted necessary to ensure a thorough and complete review of the application. All applications shall be submitted with a nonrefundable fee in accordance with a fee schedule adopted by the Board of Commissioners. The provision of G.S. § 153A-245(b) N.C.G.S. §160D-405 relating to appeals shall apply to this subchapter.

(Ord. passed 11-19-1990)

Section 22. Chapter 151 of the Lincoln County Code of Ordinances is amended as follows:

GENERAL PROVISIONS

§ 151.01 STATUTORY AUTHORIZATION.

The state legislature has in G.S. Chapter 143, Article 21, Part 6 of the North Carolina General Statutes; N.C.G.S. § 153A-121; and G.S. Chapter 153A, Article 18, Parts 3 and 4 N.C.G.S. § 160D-923, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare. Therefore, the Board of Commissioners does ordain as follows.

(Ord. passed 8-6-2007)

GENERAL REGULATIONS

§ 151.23 COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this chapter and other applicable regulations. Any person found to be in violation of this subsection shall be subject to the penalties as provided in the Section 11.2 of the Lincoln County Unified Development Ordinance.
ADMINISTRATION

§ 151.43 CORRECTIVE PROCEDURES.

(A) Violations to be corrected. When the Floodplain Administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in the notification.

(B) Actions in event of failure to take corrective action. If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

(1) The building or property is in violation of the floodplain management regulations;

(2) A hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) Following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

(C) Order to take corrective action. If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of this chapter, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in the lesser period as may be feasible.

(D) Appeal. Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the Clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(E) Failure to comply with order. If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made, or fails to comply with an order of the Board of Commissioners following an appeal, the owner shall be subject to the penalties as provided in the Section 11.2 of the Lincoln County Unified Development Ordinance and shall be punished at the discretion of the court.

PROVISIONS FOR FLOOD HAZARD REDUCTION

§ 151.55 GENERAL STANDARDS.

(A) Generally. In all Special Flood Hazard Areas, the following provisions are required.

(B) Specifically.

(1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
(4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Regulatory Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

(7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter.

(9) Nothing in this chapter shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this chapter and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that the repair, reconstruction, or replacement meets all of the other requirements of this chapter.

(10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of § 151.41(C).

(11) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(12) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(13) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(14) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334.

(15) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

(16) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply.

(C) Penalty. Any person found to be in violation of this subsection shall be subject to the penalties as provided in the Section 11.2 of the Lincoln County Unified Development Ordinance.

(Ord. passed 8-6-2007) Penalty, see § 151.99

§ 151.56 SPECIFIC STANDARDS.
(A) Generally. In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in §§ 151.21 or 151.57, the following provisions, in addition to the provisions of § 151.55, are required.

(B) Specifically.

(1) Residential construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 151.05.

(2) Nonresidential construction. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 151.05. Structures located in A, AE, AO, and A1-30 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this division (B)(2) are satisfied. The certification shall be provided to the Floodplain Administrator as set forth in § 151.41(C), along with the operational and maintenance plans.

(3) Manufactured homes.

(a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in § 151.05.

(b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to G.S. § 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

(c) All enclosures or skirting below the lowest floor shall meet the requirements of division (B)(4) below.

(d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved, or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

(4) Elevated buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

(a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of the enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

(b) Shall be constructed entirely of flood-resistant materials; and/or

(c) Shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
1. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
2. The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;
3. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
4. The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;
5. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
6. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(5) Additions/improvements.
(a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
   1. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more nonconforming than the existing structure; and/or
   2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
(b) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction; and
(c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
   1. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction; and/or
   2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(6) Recreational vehicles. Recreational vehicles shall either:
(a) Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
(b) Meet all the requirements for new construction.

(7) Temporary nonresidential structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of the structure(s) in the event of a hurricane, flash flood, or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:
(a) A specified time period for which the temporary use will be permitted. The time specified may not exceed three months, renewable up to one year;
(b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
(c) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
(d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
(e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

(8) Accessory structures.

(a) When accessory structures (sheds, detached garages, and the like) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

1. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking, or restroom areas);
2. Accessory structures shall not be temperature-controlled;
3. Accessory structures shall be designed to have low flood damage potential;
4. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
5. Accessory structures shall be firmly anchored in accordance with the provisions of § 151.55(B)(1);
6. All service facilities such as electrical shall be installed in accordance with the provisions of § 151.55(B)(4); and
7. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of division (B)(4)(c) above.

(b) An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with § 151.41(C).

(C) Penalty. Any person found to be in violation of this subsection shall be subject to the penalties as provided in the Section 11.2 of the Lincoln County Unified Development Ordinance.

(Ord. passed 8-6-2007) Penalty, see § 151.99

§ 151.57 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

(A) Generally. Within the Special Flood Hazard Areas designated as Approximate Zone A and established in § 151.21, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of § 151.55 shall apply.

(B) Specifically.

1. No encroachments, including fill, new construction, substantial improvements, or new development shall be permitted within a distance of 20 feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

2. The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria.

(a) When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within the areas shall also comply with all applicable provisions of this chapter and shall be elevated or floodproofed in accordance with standards in §§ 151.55 and 151.56.

(b) When floodway data is available from a federal, state, or other source, all new construction and substantial improvements within floodway areas shall also comply with the requirements of §§ 151.56 and 151.59.

(c) All subdivision, manufactured home park, and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five acres or has more than 50 lots/manufactured home sites. The Base Flood Elevation (BFE) data shall be adopted by reference in accordance with § 151.21 and utilized in implementing this chapter.
(d) When Base Flood Elevation (BFE) data is not available from a federal, state, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in § 151.05. All other applicable provisions of § 151.56 shall also apply.

(C) Penalty. Any person found to be in violation of this subsection shall be subject to the penalties as provided in the Section 11.2 of the Lincoln County Unified Development Ordinance.
(Ord. passed 8-6-2007) Penalty, see § 151.99

§ 151.58 STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE, BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within those areas:

(A) Standards of §§ 151.55 and 151.56; and

(B) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(C) Penalty. Any person found to be in violation of this subsection shall be subject to the penalties as provided in the Section 11.2 of the Lincoln County Unified Development Ordinance.
(Ord. passed 8-6-2007) Penalty, see § 151.99

§ 151.59 FLOODWAYS AND NON-ENCROACHMENT AREAS.

(A) Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in § 151.21. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles.

(B) The following provisions, in addition to standards outlined in §§ 151.55 and 151.56, shall apply to all development within those areas.

(1) No encroachments, including fill, new construction, substantial improvements, and other developments shall be permitted unless:

(a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or

(b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

(2) If division (B)(1) above is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this chapter.

(3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

(a) The anchoring and the elevation standards of § 151.56(B)(3); and

(b) The no encroachment standard of division (B)(1) above.

(C) Penalty. Any person found to be in violation of this subsection shall be subject to the penalties as provided in the Section 11.2 of the Lincoln County Unified Development Ordinance.
(Ord. passed 8-6-2007) Penalty, see § 151.99
LEGAL STATUS PROVISIONS

§ 151.99 PENALTY.
—Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $50 or imprisoned for not more than 30 days, or both. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent the county from taking any other lawful action as is necessary to prevent or remedy any violation. If not stated otherwise, any person found to be in violation of this Section shall be subject to the penalties as provided in the Section 11.2 of the Lincoln County Unified Development Ordinance, and shall be subject to civil action for abatement or injunctive relief. (Ord. passed 8-6-2007)

Section 23. Chapter 153 of the Lincoln County Code of Ordinances is amended as follows:

HISTORIC PROPERTIES PRESERVATION COMMISSION

§ 153.015 CREATION.
There is hereby established, by authority of N.C.G.S. §160D-303 G.S. Chapter 160A, Article 19, Part 3C, the Historic Properties Preservation Commission, or the Commission, to consist of nine members appointed by the Board of Commissioners. The Commission shall serve without monetary compensation. In establishing the Commission and making appointments to it, the Board of Commissioners shall seek the advice of the state or local historical agencies, societies, or organizations as it may deem necessary. (Ord. passed 9-8-1992)

§ 153.016 QUALIFICATION OF MEMBERS.
All members of the Historic Properties Preservation Commission shall be residents of the territory subject to the zoning jurisdiction of the county, and a majority of the members shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields. (Ord. passed 9-8-1992)

§ 153.017 TENURE.
Members of the Historic Properties Preservation Commission shall serve overlapping terms whereby not more than three terms expire in any one year. Initially, terms may be set by the Board of Commissioners to be one year to three years in length. After 1-1-1993, all terms shall be three years in length. A member may be reappointed for a second consecutive term, but after two consecutive terms a member shall be ineligible for reappointment until one calendar year has elapsed from the date of termination of his or her second term. A member may be appointed to fulfill the unexpired portion of either a first or second term. (Ord. passed 9-8-1992)

§ 153.018 ATTENDANCE AT MEETINGS.
Any member of the Historic Properties Preservation Commission who misses more than three consecutive regular meetings or more than one-half the regular meetings in a calendar year shall lose his or her status as a member of the Commission and shall be replaced or reappointed by the Board of Commissions pursuant to § 153.015. Absence due to sickness, death in the family, or other emergencies
of like nature shall be recognized as approved absences and shall not affect the member’s status on the Commission, except that in the event of a long illness, or any other such cause for prolonged absence, the member shall be replaced.
(Ord. passed 9-8-1992)

§ 153.019 MEETINGS.
The Historic Properties Preservation Commission shall establish a meeting time, and shall meet at least bimonthly (every two months) and more often as it shall determine and require. All meetings of the Commission shall be open to the public in accord with state law. Reasonable notice of the time and place thereof shall be given to the public.
(Ord. passed 9-8-1992)

§ 153.020 RULES OF PROCEDURE.
The Historic Properties Preservation Commission shall adopt rules of procedure for the conduct of its business, and an annual report shall be prepared and submitted by January 1 of each year to the Board of Commissioners. The report shall include a comprehensive and detailed review of the activities, problems, and actions of the Commission as well as any budget request or recommendations. The Commission shall keep a record of its members' attendance, and of its resolutions, findings, and recommendations, which record shall be a public record.
(Ord. passed 9-8-1992)

§ 153.021 COMMISSION POWERS.
The Historic Properties Preservation Commission is authorized and empowered to undertake any actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this chapter and N.C.G.S. §160D-942 G.S. Chapter 160A, Article 19, Part 3C, including, but not limited to, the following:

(A) Undertake an inventory of properties of historical, architectural, and/or archaeological cultural significance;

(B) Recommend to the Board of Commissioners, areas to be designated by ordinance as "Historic Districts" and individual structures, buildings, sites, areas, or objects to be designated by ordinance as "Landmarks" buildings, structures, sites, areas, or objects within its zoning jurisdiction to be designated by ordinance as "historic properties";

(C) Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as landmarks to hold, manage, preserve, restore, and improve such properties, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property;

(D) Restore, preserve, and operate the historic properties;

(E) Recommend to the Board of Commissioners that designation of any area as a historic district or part thereof, or designation of any building, structure, site, area, or object as a historic property landmark be revoked or removed;

(F) Conduct an educational program on historic properties and districts within its jurisdiction;

(G) Cooperate with the state, federal, and local governments in pursuance of the purposes of this chapter, and the General Statutes. The Board of Commissioners, or the Commission when authorized
by the Board of Commissioners, may contract with the State of North Carolina or the United States of America, or with any agency of either, or with any other organization provided the terms are not inconsistent with state or federal law;

(H) Prepare and recommend the official adoption of a preservation element as part of the local government's comprehensive plan. Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the Commission may enter any private building or structure without the express consent of the owner or occupant thereof;

(I) Review and act upon proposals for alterations, demolitions, or new construction within historic districts, or for the alteration or demolition of designated landmarks, pursuant to this Part. Act as, establish, or designate a group, body, or committee to give advice to property owners concerning the treatment of the historical and visual characteristics of their properties such as color schemes, gardens, and landscape features and minor decorative elements;

(J) Negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate. Take steps, during the period of postponement of demolition or relocation of any historic properties, to ascertain what the Board of Commissioners can or may do to preserve the properties, including consultation with private civic groups, interested private citizens, and other public boards or agencies and including investigation of potential acquisition by the Board of Commissioners when the preservation of a given historic property is clearly in the interest of the general welfare of the community and the property is of certain historic and architectural significance;

(K) Propose to the Board of Commissioners changes to this or any other ordinance and propose new ordinance or laws relating to historic properties or relating to a total program for the protection and/or development of the historic resources of the county and its environs;

(L) Communicate with other local governmental boards or commissions or with agencies of the county or other governmental units to offer or request assistance, aid, guidance, or advice concerning matters under its purview or of mutual interest;

(M) Publish information about, or otherwise inform the public of, any matters pertinent to its purview, duties, organization, procedures, responsibilities, functions, or requirements as its budget may allow;

(N) Report violations of this chapter, the zoning ordinances, or the building code, with respect to historic properties, to the Inspection Department;

(O) Accept funds granted to the Commission for preservation purposes from private individuals and organizations;

(P) Organize itself and conduct its business;

(Q) Prepare and recommend the official adoption of a preservation element as part of the county's Comprehensive Land Use Plan; and

(R) Review and act upon proposals for relocation or demolition of designated historic properties/landmarks.

(Ord. passed 9-8-1992)

**DESIGNATION OF HISTORIC PROPERTIES**

§ 153.042 CONSIDERATION OF THE REPORT.

Once the designation report has been prepared, either by the Commission or by the owner, and once the notification required by § 153.041 has been met, the Commission shall consider the report. The Commission may accept it, amend it, reject it, or recommend further study. Prior to the final action on
§ 153.043 REVIEW BY THE DEPARTMENT OF CULTURAL RESOURCES.

(A) A report accepted by the Historic Properties Preservation Commission shall be submitted to the State Department of Cultural Resources, Division of Archives and History, for comments pursuant to G.S. § 160A-400.4 N.C.G.S. §160D-944, as amended.

(B) The Historic Properties Preservation Commission shall make or cause to be made an investigation and report on the historic, architectural, educational, prehistorical, or cultural significance of each building, structure, site, area, or object proposed for designation or acquisition. The report of the inventory and assessment shall be submitted to the Department of Cultural Resources for the review.

(C) The Department of Cultural Resources shall make an analysis of recommendations concerning the report of the Commission within 30 days after the report and written request for the analysis have been received by the Department. If the Department fails to submit its analysis and recommendations to the Historic Properties Preservation Commission within 30 days after the written request for analysis has been received, the Commission or the Board of Commissioners shall be relieved of any responsibility to consider the comments.

(D) After the expiration of the 30-day comment period given the Division of Archives and History, the Commission may recommend to the Board of Commissioners that the property be designated as an historic property subject to the requirements of G.S. § 160A-400.4, as amended.

(Ord. passed 9-8-1992)

CERTIFICATE OF APPROPRIATENESS

§ 153.060 CERTIFICATE REQUIRED.

(A) From and after the designation of a historic property, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished on the historic property until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the Historic Properties Preservation Commission. The municipality County shall require such a certificate to be issued by the Commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving, or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this section. A certificate of appropriateness shall be required whether or not a building or other permit is required.

(1) For purposes of this section, EXTERIOR FEATURES shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, EXTERIOR FEATURES shall be construed to mean the style, material, size, and location of all the signs. The EXTERIOR FEATURES may, in the discretion of the local governing board, include historic signs, color, and significant landscape, archaeological, and natural features of the area.

(2) Except as provided in division (B) below, the Commission shall have no jurisdiction over interior arrangement and shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant fixtures, or outdoor advertising signs which would be incongruous with the special character of the historic property.
(B) **Interior Spaces.** Notwithstanding division (A) above, jurisdiction of the Commission over interior spaces shall be limited to specific interior features of architectural, artistic, or historical significance in publicly owned landmarks; and of privately owned historic landmarks for which consent for interior review has been given by the owner. The consent of an owner for interior review shall bind future owners and/or successors in title, provided the consent has been filed in the office of the Register of Deeds of the county in which the property is located and indexed according to the name of the owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the Commission's jurisdiction over the interior.

(C) **Rules and Standards.** Prior to any action to enforce this chapter, the Commission shall prepare and adopt rules of procedure, and may prepare and adopt principles and guidelines not inconsistent with this section for new construction, alterations, additions, moving, and demolition. Prior to issuance or denial of a certificate of appropriateness, the Commission shall take any steps as may be reasonably required in this chapter and/or rules of procedure to inform the owners of any property likely to be materially affected by the application, and shall give the applicant and the owners an opportunity to be heard. In cases where the Commission deems it necessary, it may hold a public hearing concerning the application. All meetings of the Commission shall be open to the public, in accordance with N.C.G.S. Chapter 143, Article 33C.

(D) **Time for Review.** All applications for certificates of appropriateness shall be reviewed and acted upon within a reasonable time, not to exceed 360 180 days from the date the application for a certificate of appropriateness is filed, as defined by this chapter or the Commission's rules of procedure. As part of its review procedure, the Commission may view the premises and seek the advice of the Division of Archives and History or any other expert advice as it may deem necessary under the circumstances.

(E) **Appeals.** An appeal may be taken to the Board of Adjustment from the Commission's action in granting or denying any certificate, which appeals may be taken by any aggrieved party, shall be taken within times prescribed by the preservation Commission by general rule, and shall be in the nature of certiorari. Any appeal from the Board of Adjustment's decision in any such case shall be heard by the superior court of the county in which the municipality is located.

1. Appeals of administrative decisions allowed by regulation may be made to the Commission.
2. All decisions of the Commission in granting or denying a Certificate of Appropriateness may be appealed to the Board of Adjustment in the nature of certiorari within times prescribed for appeals of administrative decisions in N.C.G.S. § 160D-405(d). To the extent applicable, the provisions of N.C.G.S. § 160D-1402 apply to appeals in the nature of certiorari to the Board of Adjustment.
3. Appeals from the Board of Adjustment may be made pursuant to N.C.G.S. § 160D-1402.
4. Petitions for judicial review shall be taken within times prescribed for appeal of quasi-judicial decisions in N.C.G.S. § 160D-1405. Appeals in any such case shall be heard by the Lincoln County Superior Court.

(F) **Public Buildings.** All of the provisions of this section are hereby made applicable to construction, alteration, moving, and demolition by the state, its political subdivisions, agencies, and instrumentalities, provided, however, they shall not apply to interiors of buildings or structures owned by the state. The state and its agencies shall have a right of appeal to the State Historical Commission or any successor agency assuming its responsibilities under G.S. § 121-12(a) from any decision of a local Historic Properties Preservation Commission. The Commission shall render its decision within 30 days from the date that the notice of appeal by the state is received by it. The current edition of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be the sole principles and guidelines used in reviewing applications of the state for certificates of appropriateness. The decision of the Commission shall be final and binding upon both the state and the Historic Properties Preservation Commission.

(Ord. passed 9-8-1992)
§ 153.061 DELAY IN DEMOLITION OF HISTORIC PROPERTIES.

(A) An application for a certificate of appropriateness authorizing the demolition, destruction, or relocation of a designated landmark may not be denied, except as provided in division (C) below. However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the Commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return from the property by virtue of the delay. During the period the Historic Properties Preservation Commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building site. If the Commission has voted to recommend designation of a property as a landmark and final designation has not been made by the local governing board, the demolition or destruction of any building, site, or structure located on the property of the proposed historic property may be delayed by the Commission or planning agency for a period of up to 180 days or until the local governing board takes final action on the designation, whichever occurs first.

(B) The governing board may enact an ordinance to prevent the demolition by neglect of any designated historic property (landmark). The ordinance shall provide appropriate safeguards to protect property owners from undue economic hardship.

(C) An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site, or structure determined by the State Historic Preservation office as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied, except where the Commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

(Ord. passed 9-8-1992)

§ 153.063 REQUIRED PROCEDURES.

(A) Application submitted to appropriate administrative official. An application for a certificate of appropriateness shall be obtained from and, when completed, filed with the appropriate administrative official. Applications for certificates of appropriateness shall be considered by the Commission at its next regular meeting, provided they have been filed, complete in form and content, at least 21 calendar days before the regularly scheduled meeting of the Commission; otherwise, consideration shall be deferred until the following meeting.

(B) Contents of application. The Commission shall, by uniform rule in its rules of procedure, require data as are reasonably necessary to determine the nature of the application. An application for a certificate of appropriateness shall not be considered complete until all required data have been submitted.

(C) Notification of Historic Properties Preservation Commission. Upon receipt of an application, the official shall notify the Commission members at least seven calendar days before the regularly scheduled meeting.

(D) Notification of affected property owners. Prior to issuance or denial of a certificate of appropriateness, the Commission shall take the steps as may be reasonably required in this chapter and/or rules of procedure to inform the owners of any property likely to be materially affected by the application and shall give the applicant and the owners an opportunity to be heard.

(E) Public hearing. In cases where the Commission deems it necessary, it may hold a public hearing concerning the application.

(F) Commission action on application.

(1) The Commission shall take action on the application and in doing so shall apply the review criteria, contained in §§ 153.075 and 153.076.

(2) The Commission's action on the application shall be approval, approval with modifications, or disapproval.
(3) Prior to final action on an application, the Commission, using the guidelines in §§ 153.075 and 153.076, shall make findings of fact indicating the extent to which the application is or is not in compliance with the review criteria.

(G) Reasons for Commission's action to appear in minutes. The Commission shall cause to be entered into the minutes of its meeting the reasons for its actions, whether it be approval, approval with modifications, or denial.

(H) Time limits. If the Commission fails to take final action upon any application within 60 days after the complete application is submitted to the Commission, the application shall be deemed to be approved.

(I) Submission of new application. If the Commission determines that a certificate of appropriateness should not be issued, a new application affecting the same property may be submitted only if substantial change is made in plans for the proposed construction, reconstruction, alteration, restoration, or moving.

(Ord. passed 9-8-1992)

REVIEW CRITERIA

CONDITIONS TO CERTAIN APPROVALS

§ 153.090 AUTHENTIC RESTORATION OR RECONSTRUCTION.

In the event that the Historic Properties Preservation Commission, in reviewing an owner's proposed find that a building or structure for which a building permit is required is to be an authentic restoration or reconstruction of a building or structure which existed at the same location but does not meet zoning requirements, the building or structure may be authorized to be restored or reconstructed at the same location where the original building or structure was located, provided the Board of Adjustment authorizes the restoration or reconstruction and no use other than that permitted in the district in which it is located is made of the property. The conditions as may be set by the Historic Properties Preservation Commission and the Board of Adjustment shall be conditions for the issuance of the building permit.

(Ord. passed 9-8-1992)

GENERAL REGULATIONS

§ 153.105 AUTHORITY TO ACQUIRE HISTORIC PROPERTIES.

Within the limits of its jurisdiction, the Historic Properties Preservation Commission (and with the approval of the local governing board) may acquire property designated as historic property, and may pay therefore out of any funds which may be appropriated for that purpose. The county, pursuant to N.C.G.S. §160D-942(3), has the authority to acquire, maintain, manage, repair, restore, or dispose of any buildings or structure designated as a historic property in any order adopted pursuant to this chapter. In the event the property is acquired under this section but is not used for some other governmental purpose, it shall be deemed to be a MUSEUM under the provisions of N.C.G.S. § 160A-488, notwithstanding the fact that the property may be or remain in private use, so long as the property is made reasonable accessible to and open for visitation by the general public.

(Ord. passed 9-8-1992)

§ 153.106 OWNERSHIP OF PROPERTY.

All lands, buildings, structures, sites, areas, or objects acquired by funds appropriated by the local government shall be acquired in the name of the local government, unless otherwise provided by the
Board of Commissioners. So long as owned by the local government, historic properties and landmarks may be maintained by or under the supervision and control of the local government. However, all lands, buildings, or structures acquired by the Historic Properties Preservation Commission from funds other than those appropriated by the local government may be acquired and held in the name of the Historic Properties Preservation Commission, the local government, or both in accordance with the General Statutes of North Carolina as they may apply and as approved by the Board of Commissioners.

(Ord. passed 9-8-1992)

§ 153.110 REMEDIES.
In case any building, structure, site, area, or object designated a historic property is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled, or removed, except in compliance with this chapter, the Board of Commissioners or Historic Properties Preservation Commission may institute any appropriate action or proceedings to prevent the unlawful demolition, material alteration, remodeling, or removal, to restrain, correct, or abate the violation, or to prevent any illegal act of conduct with respect to the historic property.

(Ord. passed 9-8-1992)

Section 24. Chapter 154 of the Lincoln County Code of Ordinances is amended as follows:

CHAPTER 154: WATERSHED PROTECTION

GENERAL PROVISIONS

§ 154.01 ADOPTION BY REFERENCE.
The county's watershed protections regulations as set forth in the Lincoln County Unified Development Ordinances, as amended, are hereby adopted by reference and incorporated herein as if set out in full.

AUTHORITY AND ENACTMENT.
The State Legislature has, in G.S. § 153A-121 and G.S. Chapter 143, Article 21, delegated the responsibility or directed local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. The Board of Commissioners does hereby ordain and enact into law this chapter as the Watershed Protection Ordinance of the county. This chapter may also be referred to be the "Watershed Ordinance" or the "Lincoln County Watershed Ordinance."

(Ord. passed —)

§ 154.02 JURISDICTION.
The provisions of this chapter shall apply within the areas designated as a Public Water Supply Watershed by the State Environmental Management Commission and shall be defined and established on the map entitled, "Watershed Protection Map of Lincoln County, North Carolina" (the "Watershed Map"), which is adopted simultaneously herewith. All areas governed by this chapter shall be located outside the planning jurisdiction of the City of Lincolnton, North Carolina. The Watershed Map and all explanatory matter contained thereon accompanies and is hereby made a part of this chapter. This chapter shall be permanently kept on file in the office of the County Planning Department.

(Ord. passed —)
§ 154.03 EXCEPTIONS TO APPLICABILITY.

(A) Nothing contained herein shall repeal, modify, or amend any federal or state law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of this chapter amend, modify, or restrict any provisions of this code; however, the adoption of this chapter shall and does amend any and all ordinances, resolutions, and regulations in effect in the county at the time of the adoption of this chapter that may be construed to impair or reduce the effectiveness of this chapter or to conflict with any of its provisions.

(B) It is not intended that these regulations interfere with any easement, covenants, or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

(C) Existing development, as defined in this chapter, is not subject to the requirements of this chapter. Expansions to structures classified as existing development (on any lot other than a lot containing a single-family residence as the principal use) must meet the requirements of this chapter, however, the built-upon area of existing development is not required to be included in the density calculations. An example of how this is to be interpreted is as follows:

Example-A

Facts.

1. Property in WS-IV protected area.
2. Low density option being used.
3. Total lot area = 65,000 square feet
4. Existing built-upon area of 14,000 square feet (10,000 square feet + 4,000 square feet).
5. 51,000 square feet of undeveloped land.

Development Capabilities.

1. Existing development (i.e., 14,000 square feet) not to be included in calculation.
2. Additional lot coverage permitted of up to 12,240 square feet (51,000 square feet x 24% maximum built-upon area = 12,240 square feet).

(D) If a nonconforming lot of record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of this chapter if it is developed for single-family residential purposes. Any lot or parcel created as part of a family subdivision after the effective date of these rules shall be exempt from these rules if it is developed for one single-family detached residence and if it is exempt from local subdivision regulation. Any lot or parcel created as part of any other type of subdivision that is exempt from a local subdivision ordinance shall be subject to the land use requirements (including impervious surface requirements) of these rules, except that such a lot or parcel must meet the minimum buffer requirements to the maximum extent practicable.

(Ord. passed --)

§ 154.04 REMEDIES.

If the Watershed Administrator finds that any of the provisions of this chapter are being violated, he or she shall notify in writing the person responsible for the violation, indicating the nature of the violation, and ordering the action necessary to correct it. He or she shall order discontinuance of the illegal use of land, buildings, or structures; removal of illegal buildings or structures; or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this chapter to ensure compliance with or to prevent violation of its provisions. If a ruling of the Watershed Administrator is questioned, the aggrieved party or parties may appeal the ruling to the Board of Adjustment in accordance with § 154.56.

(Ord. passed --)
§ 154.05 EFFECTIVE DATE.
This chapter shall take effect and be in force on 1-1-1994.
(Ord. passed —)

§ 154.06 AMENDMENTS.
—(A) Generally. Under no circumstances shall the Board of Commissioners adopt any amendment, addition, or deletion that would cause these regulations to violate the watershed protection rules as adopted by the State Environmental Management Commission.
—(B) Initiation of amendments.
   —(1) Any amendment to the text of this chapter may be initiated by the County Planning Board, Board of Commissioners, or by any owner of a legal or equitable interest in property affected by this chapter, or by any resident or local government agency in the county.
   —(2) Any amendment to the map accompanying this chapter may be initiated by the County Planning Board, Board of Commissioners, or by the owner of a legal or equitable interest in the affected property, or an agent authorized in writing to act on the owner's behalf.
—(C) Submittal and review periods. All applications must be submitted to the Watershed Administrator at least ten days prior to the next regularly scheduled Planning Board meeting. This requirement may be waived by a unanimous vote of this Planning Board membership present at a meeting occurring less than ten days prior to the date of submission. In no case shall any application deemed complete by the Watershed Administrator be reviewed by the Planning Board at a meeting occurring more than 60 days after the application was submitted to the Watershed Administrator. The Planning Board shall have 45 days from the date at which it met to review a complete application to submit its recommendation to the Board of Commissioners. If a recommendation is not made during the 45-day period for any complete application, the application shall be forwarded to the Board of Commissioners without a recommendation.
—(D) Public hearing notification. The Watershed Administrator shall transmit the decision of the Planning Board to the Board of Commissioners. Once a recommendation has been sent to the Board of Commissioners or the requisite recommendation period has elapsed, whichever comes first, the Board of Commissioners shall have a maximum of 45 days to consider holding a public hearing on the proposed change. Notification of the public hearing, if called for by the Board of Commissioners, shall be made in the following manner.
   —(1) A notice shall be published in a newspaper having general circulation in the county once a week, for two successive weeks, the first notice to be published not less than ten days nor more than 25 days prior to the date established for the hearing.
   —(2) If a change of a Watershed District classification is requested, a conspicuous notice shall be posted in a conspicuous place on the subject property at least ten days prior to the public hearing. The notice shall state the existing watershed classification and the classification requested by the applicant and the date, time, and location of the public hearing. The notice shall be removed only after the public hearing has been conducted and the Board of Commissioners has rendered its final decision.
   —(3) A notice of the proposed Watershed District classification change shall be sent by first-class mail by the Watershed Administrator at least ten days prior to the public hearing to all adjacent property owners; to all property owners whose properties lie within 200 feet of any portion of the property(ies) in question; to the clerks of all local governments having jurisdiction within that particular watershed; and to all major consumers of water whose point of intake lies within that watershed. The Watershed Administrator shall file an affidavit certifying that this requirement has been met.
—(E) Board of Commissioners' action. Once the public hearing has been conducted and closed, the Board of Commissioners shall render a decision on the petition. Any amendment to the boundaries of any particular Water Supply Watershed District shall be referred to the State Division of Environmental
Management, State Division of Environmental Health, and the State Division of Community Assistance for their review and comment prior to a decision being rendered by the Board of Commissioners.

(F) Resubmission of petition. If the Board of Commissioners has denied an application for map change or for a particular text change to this chapter, the Planning Board shall not review any applications for the same changes affecting the same property or any portion thereof until the expiration of one year from the date of the previous denial. This provision may be waived when the petition is filed by the County Planning Board or Board of Commissioners.

(Ord. passed —)

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

—ABANDONMENT. The terms ABANDONMENT or ABANDONED, as used herein, shall mean the voluntary discontinuance of a use with the intent not to reestablish the use. Any of the following shall constitute evidence of abandonment or intent to abandon:

— (1) Any positive act indicating the intent;
— (2) Premises have been devoted to another use;
— (3) When the characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by the same or similar equipment; and/or
— (4) Failure to take all positive action to resume the nonconforming use with reasonable dispatch, including the failure to advertise the property for sale or for lease.

—AGRICULTURAL USE. The use of waters for stock watering, irrigation, and other farm purposes.

—ANIMAL UNIT. A unit of measurement developed by the U.S. Environmental Protection Agency that is used to compare different types of animal operations.

—BEST MANAGEMENT PRACTICES (BMP). A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

—BOARD OF ADJUSTMENT. Lincoln County Board of Adjustment.

—BOARD OF COMMISSIONERS. Lincoln County Board of Commissioners.

—BUFFER. An area of natural or planted vegetation through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The BUFFER is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

—BUILT-UPON AREA. Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel area (e.g., roads, parking lots, and paths), recreation facilities (e.g., tennis courts), and the like. (Wooden-slatted decks and the water area of a swimming pool are considered pervious).

—CLUSTER DEVELOPMENT. The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing storm water runoff impacts. This term includes nonresidential development as well as single-family residential subdivision and multi-family developments.

—COMPOSTING FACILITY. A facility in which only stumps, limbs, leaves, grass, and untreated wood collected from land clearing or landscaping operations is deposited.

—CRITICAL AREA. The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The CRITICAL AREA is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run of the river); or the ridge line of the
watershed (whichever comes first). Major landmarks such as highways or property lines may be used
to delineate the outer boundary of the CRITICAL AREA if these landmarks are immediately adjacent
to the appropriate outer boundary of one-half mile.

—DEVELOPMENT. Any land-disturbing activity with adds to or changes the amount of impervious
or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation
into the soil.

—DEVELOPMENT, EXISTING. Those projects that are built or those projects that at a minimum
have established a vested right under state zoning law as of the effective date of this chapter based on
at least one of the following criteria:

— (1) Substantial expenditures of resources (time, labor, and money) based on a good faith reliance
upon having received a valid local government approval to proceed with the project;

— (2) Having an outstanding valid building permit as authorized by G.S. §§ 153A-344.1 and 160A-
385.1; and/or

— (3) Having an approved site specific or phased development plan as authorized by G.S. §§ 153A-
344.1 and 160A-385.1.

—DISCHARGING LANDFILL. A facility with liners, monitoring equipment, and other measures to
detect and/or prevent leachate from entering the environment and in which the leachate is treated on
site and discharged to a receiving stream.

—EXISTING LOT (LOT OF RECORD). A lot which is part of a subdivision, a plat of which has been
recorded in the office of the Register of Deeds prior to 1-1-1994, or a lot described by metes and bounds,
the description of which has been so recorded prior to 1-1-1994.

—HAZARDOUS MATERIAL. Any substance listed as such in: S.A.R.A. § 302, Extremely Hazardous

—HIGH DENSITY OPTION. A development which contains engineered storm water control devices
approved in a manner as called for in this chapter, thereby enabling development to occur at a higher
intensity (than if the low-density option were used) as prescribed by the Environmental Management

—INDUSTRIAL DEVELOPMENT. Any non-residential development that requires an NPDES permit
for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose
of manufacturing, assembling, finishing, cleaning, or developing any product or commodity.

—LANDFILL. A facility for the disposal of solid waste on land in a sanitary manner in accordance
with G.S. Chapter 130A, Article 9. For the purpose of this chapter, this term does not include compost
facilities.

—LOW DENSITY OPTION. A development which does not contain engineered storm water control
devices (i.e., wet detention ponds) which are approved by the Board of Commissioners in conjunction
with development taking place in a WS District.

—MOBILE HOME.

— (1) A dwelling unit that:

—— (a) Is not constructed in accordance with the standards set forth in the State Building Code;

—— (b) Is composed of one or more components, each of which was substantially assembled in a
manufacturing plant and designed to be transported to the home site on its own chassis; and

—— (c) Exceeds 40 feet and eight feet in width.

— (2) A structure that would otherwise be characterized as a MOBILE HOME except that it is not
used or held ready for use as a dwelling unit (e.g., is used as an office or some other business use) shall
not be regarded as a MOBILE HOME.

—MOBILE HOME PARK. A development located on one or more parcels of land for which three
mobile home spaces with utilities and other amenities provided to serve the mobile homes located
the mobile homes which may serve as either the owner's, the operator's, and their families residences are included for the purpose of this definition.

—NONCONFORMING LOT OF RECORD. A lot described by a plat or a deed that was recorded prior to the effective date of local watershed protection regulations (or their amendments) that does not meet the minimum lot size or other development requirements of the statewide watershed protection rules.

—PLAT. A map or plan of a parcel of land which is to be, or has been subdivided.

—PROTECTED AREA. The area adjoining and upstream of the critical area in a WS-IV water supply in which protection measures are required. The boundaries of the PROTECTED AREA are defined as within five miles of the normal pool elevation of the reservoir and draining to water supply reservoirs measured from normal pool elevation) or to the ridge line of the watershed (whichever comes first); or ten miles upstream and draining to the intake located directly in the stream or river (run-of-the-river), or to the ridge line of the watershed (whichever comes first). Major landmarks such as highways or property lines may be used to delineate the outer boundary of the PROTECTED AREA if these landmarks are immediately adjacent to the appropriate outer boundary of five or ten miles. In some cases the PROTECTED AREA will encompass the entire watershed.

—RESIDENCE, SINGLE-FAMILY.

—(1) Any development where:

—(a) Every dwelling unit (including mobile homes) is on a separate lot; and

—(b) Where no lot contains more than one dwelling unit.

—(2) Notwithstanding, a mobile home park shall be considered a single-family residential development.

—RESIDENTIAL DEVELOPMENT. Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, mobile home parks, and the like and their associated outbuildings such as garages, storage buildings, gazebos, and the like and customary home occupations.

—SEWER SYSTEM, PUBLIC. A means of collecting, transporting and treatment of sewage by a public entity (e.g., city, town, county, and district), or other public body created by, or pursuant to state, federal, and local laws, or any combination thereof acting cooperatively or jointly. A package treatment plant shall be considered part of a public sewer system if owned by a city, town, county, district, and the like.

—TOXIC SUBSTANCE. Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring or other adverse health effects.

—VARIANCE, MAJOR. A variance from the county's water supply watershed regulations that results in the relaxation by a factor greater than 5% of any buffer, density, or built-upon area requirement under the high density option; or any variation in the design, maintenance, or operation requirements of a wet detention pond or other approved storm water management system; or relaxation by a factor greater than 10% of any management requirement under the low density option.

—VARIANCE, MINOR. A variance from the county's water supply watershed regulations that results in a relaxation by a factor of up to 5% of any buffer, density, or built-upon area requirement under the high density option; or that results in the relaxation by a factor of up to 10% of any management requirement under the low density option.

—WATER-BORNE STRUCTURE.

—(1) Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, and bulkheads.
Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

WATERSHED. The entire land area contributing surface drainage to a specific point (e.g., the water supply intake).

WATER SYSTEM, PUBLIC. The provision to the public of piped water by a system owned and operated by a public entity.

DEVELOPMENT REGULATIONS

§ 154.20 ESTABLISHMENT OF WATERSHED AREAS.

(A) The purpose of this subchapter is to list and describe the watershed areas herein adopted.

(B) For the purposes of this chapter, the county is hereby divided into the following Watershed Districts:

1. WS-II-CA (Critical Area);
2. WS-II-BW (Balance of Watershed);
3. WS-III-BW (Balance of Watershed);
4. WS-IV-CA (Critical Area); and
5. WS-IV-PA (Protected Area).

§ 154.21 WATERSHED AREAS DESCRIBED.

(A) WS-II Watershed Areas; Critical Area (WS-II-CA). In order to maintain a predominately undeveloped land use intensity pattern, single-family residential uses shall be allowed at a maximum of one dwelling unit per two acres, or on lots having a minimum area of 80,000 square feet. All other residential and nonresidential development shall be allowed with a maximum 6% built-upon area. No new permitted sites for land application of residuals or petroleum contaminated soils are allowed. No new landfills are allowed.

1. Allowed uses.
   (a) Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation, and Trade Act of 1990. Agricultural activities conducted after 1-1-1993 shall maintain a minimum ten-foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (seven and one-half minute) scale topographic maps or as determined by local government studies. Animal operations deemed permitted and permitted under 15A NCAC 2H.0217 are allowed. (The Soil and Water Conservation Commission is the designated agency responsible for implementing the provisions of this chapter relating to agricultural activities.)
   (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209);
   (c) Residential development (single-family, two-family, cluster, and multi-family developments); and
   (d) Nonresidential development, excluding: landfills and sites for land application of residuals or petroleum contaminated soils. New industrial development is required to incorporate adequately designed, constructed, and maintained spill containment structures if hazardous materials are either used, stored, or manufactured on the premises.
2. Density and built-upon limits.
(a) Single-family residential uses. Development shall not exceed one dwelling unit per two acres on a project-by-project basis; alternatively, lots having an area of at least 80,000 square feet (excluding road right-of-way) are allowed. Cluster development (see § 154.22) shall also be allowed.

(b) All other residential and nonresidential. Development shall not exceed 6% built-upon area on a project-by-project basis. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

(B) WS-II Watershed Areas; Balance of Watershed (WS-II-BW). In order to maintain a predominantly undeveloped land use intensity pattern, single-family residential uses shall be allowed at a maximum of one dwelling unit per acre; alternatively, lots having an area of at least 40,000 square feet are allowed. All other residential and nonresidential development shall be allowed a maximum of 12% built-upon area. In addition, nonresidential uses may occupy 10% of the balance of the watershed which is outside the critical area (located within the jurisdiction of this chapter) with a 70% built-upon area when approved as a special nonresidential intensity allocation (SNIA). The Watershed Administrator is authorized to approve permits for SNIAs consistent with the provisions of this chapter found in § 154.61. Nondischarging landfills and sludge application sites are allowed.

(1) Allowed uses.

(a) Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation, and Trade Act of 1990;

(b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-0209);

(c) Residential development (Single-family, two-family, cluster, and multi-family development); and

(d) Nonresidential development except no NPDES permits will be issued for landfills that discharge treated leachate.

(2) Density and built-upon limits.

(a) Single-family residential. Development shall not exceed one dwelling unit per acre on a project-by-project basis. Alternatively, lots with a minimum area of 40,000 square feet (excluding road right-of-way) shall be allowed. Cluster development (see § 154.22) shall also be allowed.

(b) All other residential and nonresidential. Development shall not exceed 12% built-upon area on a project-by-project basis except that up to 10% of the balance of the watershed (located within the jurisdiction of this chapter) may be developed for nonresidential uses to 70% built-upon area on a project-by-project basis in accordance with the provisions of § 154.61. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed. For expansions to existing development, the existing built-upon surface area is not counted toward the maximum allowed 70% built-upon surface area.

(C) WS-III Watershed Areas; Balance of Watershed (WS-III-BW). In order to maintain a low to moderate land use intensity pattern, single-family residential uses shall develop at a maximum of two dwelling units per acre; alternatively, lots having an area of at least 20,000 square feet are allowed. All other residential and nonresidential developments shall be allowed a maximum of 24% built-upon area on a project-by-project basis in accordance with the provisions of § 154.61. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed. For expansions to existing development, the existing built-upon surface area is not counted toward the maximum allowed 70% built-upon surface area

(1) Allowed uses.

(a) Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation, and Trade Act of 1990;

(b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-0209);
—— (c) Residential development (single-family, two-family, cluster, and multi-family), and
—— (d) Nonresidential development except no NPDES permits will be issued for landfills that discharge treated leachate.

—— (2) Density and built-upon limits.
—— (a) Single-family residential. Development shall not exceed two dwelling units per acre, as defined on a project-by-project basis. Alternatively, lots with a minimum area of 20,000 square feet (excluding road right-of-way) shall be allowed. Cluster developments (see § 154.22) shall also be allowed.
—— (b) All other residential and nonresidential. Development shall not exceed 24% built-upon area on a project-by-project basis except that up to 10% of the balance of the watershed located outside of the critical area and within the jurisdiction of this chapter may be developed for nonresidential uses to 70% built-upon area on a project-by-project basis in accordance with § 154.61. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed. For expansions to existing development, the existing built-upon surface area is not counted toward the maximum allowed 70% built-upon surface area.

—— (D) —WS-IV Watershed Areas; Critical Area (WS-IV-CA). Only new development activities that require an erosion/sedimentation control plan under state law or approved local program are required to meet the provisions of this chapter when located in the WS-IV watershed. In order to address a moderate to high land use intensity pattern, single-family residential uses are allowed at a maximum of two dwelling units per acre (or 20,000 square foot lot, excluding road rights-of-way). All other residential and nonresidential development shall be allowed with a maximum built-upon area of 24% through 50% depending on whether the low or high density option is used. The high density option shall only be allowed for use in the Catawba/Lake Norman Watershed. (Refer to § 154.62 for information on the high-density option.) No new sites for land application of residuals or petroleum contaminated soils are allowed. Landfills are specifically prohibited.

—— (1) Allowed uses.
—— (a) Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation, and Trade Act of 1990. Agricultural activities conducted after 1-1-1993 shall maintain a minimum ten-foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (seven and one-half minute) scale topographic maps or as determined by local government studies. Animal operations deemed permitted and permitted under 15A NCAC 2C.0217 are allowed. (The Soil and Water Conservation Commission is the designated management agency responsible for implementing the provisions of this chapter.);
—— (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209);
—— (c) Residential development (single-family, two-family, cluster, and multi-family); and
—— (d) Nonresidential development, excluding landfills and sites for land application of sludge/residuals or petroleum contaminated soils.

—— (2) Density and built-upon limits.
—— (a) Single-family residential. Development shall not exceed two dwelling units per acre on a project-by-project basis, or lots shall have an area of at least 20,000 square feet (excluding road right-of-way). Cluster developments (see § 154.22) shall also be allowed.
—— (b) All other residential and nonresidential. Development shall not exceed 24% built-upon area on a project-by-project basis. If the low-density option is used and 50% built-upon area if the high density option is used. For the purpose of calculating the built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

—— (E) —WS-IV Watershed Areas; Protected Area (WS-IV-PA). Only new development activities that require an erosion/sedimentation control plan under state law or approved local government program
are required to meet the provisions of this chapter when located in a WS-IV watershed. In order to address a moderate to high land use intensity pattern, single-family residential uses shall develop at a maximum of two dwelling units per acre, (or 20,000 square foot lots, excluding road rights-of-way) when curb and gutter is provided or three dwelling units per acre when curb and gutter is not provided. All other residential and nonresidential development shall be allowed at a maximum of 24% built-upon area on a project-by-project basis if the low-density option is used (or 36%, in projects not having curb and gutter) and 70% built-upon area on a project-by-project basis if the high density option is used. The high density option may only be used in the Catawba/Lake Norman Watershed. Refer to § 154.62 for more information on the high density option. Notwithstanding the above, in the Catawba/Mountain Island Lake, Catawba/Hoyle Creek, Catawba/Lake Wylie, and Catawba/South Fork Catawba River watersheds only, 10% of the area of each such watershed located in a WS-IV-PA District may be developed with new nonresidential projects and expansions to existing non-residential developments with up to 70% built-upon surface area in addition to the new development otherwise allowed in this District.

--- (1) Uses allowed.
--- (a) Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation, and Trade Act of 1990;
--- (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.6101-.0209);
--- (c) Residential development (single-family, two-family, cluster, and multi-family); and
--- (d) Nonresidential development.

--- (2) Density and built-upon limits.
--- (a) Single-family residential. Development shall not exceed two dwelling units per acre, on a project-by-project basis, or lots shall have an area of at least 20,000 square feet (excluding road right-of-way), when curb and gutter are provided; or three dwelling units per acre or lots shall have an area of at least 14,520 square feet (excluding road right-of-way) when curb and gutter are not provided. Cluster developments (see § 154.22) are allowed.
--- (b) All other residential and nonresidential. Development shall not exceed 24% built-upon area (with curb and gutter) or 36% built-upon area (without curb and gutter) on a project-by-project basis if the low-density option is used. Irrespective of the use of curb and gutter, projects may have maximum built-upon areas of 70% if the high density option is used. (The high density option is only available in the Catawba/Lake Norman Watershed.) For the purpose of calculating built-upon areas, total project area shall include total acreage in the tract on which the project is to be developed.
--- (3) Development. Notwithstanding the above, up to 10% of the area located within a Catawba/Mountain Island Lake, Catawba/Hoyle Creek, Catawba/Lake Wylie, and Catawba/South Fork Catawba River watersheds which has a WS-IV-PA District, may be developed with new nonresidential projects and expansions to existing nonresidential developments with up to 70% built-upon surface area in addition to the new development otherwise allowed in this District. For expansions to existing development, the existing built-upon surface area is not counted toward the allocated 70% built-upon area.

(Ord. passed – –) Penalty, see § 154.99

§ 154.22 CLUSTER DEVELOPMENT.
--- (A) Generally. Clustering of development is allowed in all watershed areas under the following conditions.
--- (B) Specifically.
--- (1) The overall density of the project meets the associated density or storm water control requirements under these rules. Maximum densities for single-family residential uses shall be as follows:
Watershed District—Maximum Density (Lots per Acre)

WS-II-CA (Critical Area) 1 dwelling unit per 2 acres
WS-II-BW (Balance of Watershed) 1 dwelling unit per acre
WS-III-BW (Balance of Watershed) 2 dwelling units per acre
WS-IV-CA (Critical Area) 2 dwelling units per acre
WS-IV-PA (Protected Area) 2 dwelling units per acre with curb and gutter; 3 dwelling units per acre without curb and gutter

— (2) Buffers must meet the minimum guidelines established in § 154.23.
— (3) Built-upon areas are designed and located to minimize storm water runoff impact to the receiving waters, minimize concentrated storm water flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
— (4) Areas of concentrated density development are to be located in upland areas and away, to the maximum extent practicable, from surface waters and drainageways.
— (5) The remainder of the tract not developed shall remain in a vegetated or natural state.
— (6) The area in the vegetated or natural state may be conveyed to a property owners association; a local government for preservation as a park or greenway; a conservation organization; or be placed in a permanent conservation or farmland preservation easement. A maintenance agreement shall be filed with the property deed.
— (7) Cluster developments shall transport storm water runoff by vegetated conveyances to the maximum extent practicable.

(Ord. passed —) Penalty, see § 154.99

§ 154.23 BUFFER AREAS REQUIRED.

— (A) A minimum 100-foot vegetative buffer is required for all new development activities that employ the high density option; otherwise, a minimum 30-foot vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (seven and one-half minute) scale topographic maps or as determined by local government studies. Desirable artificial streambank or shoreline stabilization is permitted.
— (B) No new development is allowed in the buffer except for water-borne structures (e.g., piers, docks, and the like) or other structures such as flag poles, signs, and security lights, which result in only de minimis increases in impervious area and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of storm water Best Management Practices.

(Ord. passed —) Penalty, see § 154.99

§ 154.24 RULES GOVERNING THE INTERPRETATION OF WATERSHED AREA BOUNDARIES.

— (A) Generally. Where uncertainty exists as to the boundaries of the watershed areas, as shown on the Watershed Map, the following rules shall apply.
— (B) Specifically.
— (1) Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines, or centerlines thereof, the lines shall be construed to be the boundaries.
— (2) Where area boundaries are indicated as approximately following lot lines, the lot lines shall be construed to be the boundaries.
Where the boundaries of a particular WS District lie at a scaled distance more than 25 feet from any adjoining lot line, the location of the WS District shall be determined by use of the scale appearing on the Watershed Map.

Where the boundaries of a particular WS District boundaries lie at a scaled distance of 25 feet or less from any adjoining lot line, the lot line may be used as the WS boundary.

Where other uncertainty exists, the Watershed Administrator shall interpret the Watershed Map as to location of the boundaries. This decision may be appealed to the Board of Adjustment in accordance with § 154.56.

Penalty, see § 154.99

§ 154.25 APPLICATION OF REGULATIONS.

(A) No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.

(B) No area required for the purpose of complying with the provisions of this chapter shall be included in the area required for another building.

(C) Every structure hereafter erected, moved, or structurally altered shall be located on a lot which conforms to the regulations herein specified, except as permitted in § 154.26.

(D) If a use or class of use is not specifically indicated as being allowed in a watershed area, the use or class of use is prohibited.

Penalty, see § 154.99

§ 154.26 NONCONFORMING SITUATIONS.

(A) Vacant lots. Refer to § 154.03(D).

(B) Uses of land.

(1) This category consists of uses existing at the time of adoption of this chapter where the use of the land is not permitted to be established hereafter in the watershed area in which it is located. The uses may be continued except as follows:

(a) When the use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use:

(b) The use of land shall be changed only to an allowed use.

(c) When the use is abandoned for a period of at least one year, it shall not be reestablished.

(2) The Planning Board shall hear and decide applications from any land owner to consider changing one nonconforming use to another. A fee, in accordance with a fee schedule adopted by the Board of Commissioners, shall be required of any person seeking a change or expansion of a nonconformity as herein outlined.

(3) In order to decide on such an application, the Planning Board shall first hold a quasi-judicial public hearing. Notice of the public hearing shall be as provided in § 154.60(C).

(4) The Planning Board may approve an application to change one nonconforming use to another after having first held the public hearing and having determined:

(a) The decision to approve or deny the appeal is based on whether the proposed use and/or structure would be more suitable and appropriate for the lot(s) on which they are located and the watershed in which it is located, then the existing use and/or structure;

(b) The proposed use and/or structure would have a less harmful effect than the existing use and/or structure on the properties surrounding the lot in question and the watershed in which the use is located;
The decision to grant the change will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or the watershed or otherwise be detrimental to the public welfare; and

In approving this change, adequate safeguards exist or are required to be put in place to ensure that the proposed use and/or structure will be in harmony with the neighborhood and watershed in which it is located and will not cause undue harm.

The Planning Board, in granting the change may prescribe fair and reasonable conditions and safeguards in conformity with this chapter in order to ensure that the findings listed in divisions (B)(1) through (B)(4) above are met. In no instance shall any of these conditions be less restrictive than any conditions which otherwise would apply to the use as called for by this chapter.

Reconstruction of buildings or built-upon areas. Any existing building or built-upon area not in conformance with the restrictions of this chapter that has been destroyed (i.e., receives damage to an extent of more than 50% of its assessed value at the time of destruction) may be reconstructed provided:

1. Repair or reconstruction is initiated within 180 days from the date of destruction (such shall not apply to single-family residential structures or structures within mobile home parks); and/or

2. The total amount of space devoted to built-upon area may not be increased unless storm water control that equals or exceeds the previous development is provided. (The shall not apply to single-family residential structures or structures within mobile home parks.)

Penalty, see § 154.09

§ 154.27 WATERSHED PROTECTION PERMIT.

Except where a single-family residence is constructed on a lot deeded prior to the effective date of this chapter, no building or built-upon area shall be erected, moved, enlarged, or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a watershed protection permit has been issued by the Watershed Administrator. (In areas of the county which are zoned by the County Zoning Ordinance, a zoning permit issued per the ordinance, may be substituted.) No watershed protection permit shall be issued except in conformity with the provisions of this chapter.

Watershed protection permit applications shall be filed with the Watershed Administrator. The application shall include a completed application form and supporting documentation deemed necessary by the Water Administrator.

Prior to issuance of a watershed protection permit, the Watershed Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this chapter.

A watershed protection permit shall lapse and become invalid unless the work for which it was issued is started within six months of the date of issue, or if the work authorized by it is suspended or abandoned for a period of at least one year.

§ 154.28 BUILDING PERMIT REQUIRED.

Except for a single-family residence constructed on a lot deeded prior to the effective date of this chapter, no permit required under the State Building Code shall be issued for any activity for which a watershed protection permit is required until that permit has been issued.

§ 154.29 WATERSHED PROTECTION OCCUPANCY PERMIT.

The Watershed Administrator shall issue a watershed protection occupancy permit certifying that all requirements of this chapter have been met prior to the occupancy or use of a building hereafter
erected, altered, or moved and/or prior to the change of use of any building or land. In areas of the county zoned under the County Zoning Ordinance, a certificate of occupancy, issued per the ordinance may be substituted.

---(B)--- When only a change in use of land or existing building occurs, the Watershed Administrator shall issue a watershed protection occupancy permit certifying that all requirements of this chapter have been met coincident with the watershed protection permit.

---(C)--- If the watershed protection occupancy permit is denied, the Watershed Administrator shall notify the applicant in writing with the reasons of denial specified in writing. Appeals to the decision of the Watershed Administrator may be made per § 154.56.

---(D)--- No building or structure which has been erected, moved, or structurally altered may be occupied until the Watershed Administrator has approved and issued a watershed protection occupancy permit.  (Ord. passed ---) Penalty, see § 154.99

PUBLIC HEALTH REGULATIONS

§ 154.40 PUBLIC HEALTH; GENERALLY.

---(A)--- No activity, situation, structure, or land use shall be allowed within a WS District which poses a threat to water quality and the public health, safety, and welfare. The conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash, or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of storm water runoff; or any other situation found to pose a threat to water quality.

---(B)--- The Watershed Administrator shall monitor land use activities within all WS Districts to identify situations that may pose a threat to water quality. Where the Administrator or Board of Commissioners finds a threat to water quality and the public health, safety, and welfare, the Board of Commissioners shall institute any appropriate action or proceeding to restrain, correct, or abate the condition and/or violation as herein authorized.  (Ord. passed ---) Penalty, see § 154.99

ADMINISTRATION, ENFORCEMENT, AND APPEALS

§ 154.55 WATERSHED ADMINISTRATOR AND DUTIES THEREOF.

---(A)--- The Board of Commissioners shall appoint a Watershed Administrator, who shall be duly sworn in.

---(B)--- It shall be the duty of the Watershed Administrator to administer and enforce the provisions of this chapter as follows.

---(1)--- The Watershed Administrator (or his or her designee) shall issue watershed protection permits and watershed protection occupancy permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Administrator.

---(2)--- The Watershed Administrator (or his or her designee) shall serve as clerk to the Board of Adjustment pertaining to matters in association with this chapter.

---(3)--- The Watershed Administrator (or his or her designee) shall keep records of all amendments to the local water supply watershed protection ordinance and shall provide copies of all amendments upon adoption to the Supervisor of the Classification and Standards Group, Water Quality Section, Division of Environmental Management.

---(4)--- The Watershed Administrator (or his or her designee) shall keep records of the jurisdiction's use of the provision that a maximum of 10% of the noncritical area of WS-II and WS-III watersheds
and 10% of the noncritical area of the Catawba/Mountain Island Lake, Catawba/Hoyle Creek, Catawba/Lake Wylie, and Catawba/South Fork Catawba River WS-IV watersheds may be developed with new development at a maximum of 70% built-upon surface area. Records for each watershed shall include the total acres of noncritical watershed area, total acres eligible to be developed under this option, total acres approved for this development option, and individual records for each project with the following information: location, acres, site plan, use, storm water management plan as applicable and inventory of hazardous materials as applicable.

— (5) The Watershed Administrator is granted the authority to administer and enforce the provisions of this chapter, exercising in the fulfillment of his or her responsibility the full police power of the county. The Watershed Administrator, or his or her designee, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him or her by this chapter.

— (6) The Watershed Administrator shall keep a record of variances to the County Watershed Ordinance. This record shall be submitted to the Supervisor of the Classification and Standards Group, Water Quality Section, Division of Environmental Management, during the last week of December of each year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

(Ord. passed —)

§ 154.56 APPEAL FROM THE WATERSHED ADMINISTRATOR.

— (A) Any order, requirement, decision, or determination made by the Watershed Administrator may be appealed to and decided by the Board of Adjustment. The Board of Adjustment shall hear and decide appeals from and review any order, requirement, decision, interpretation, or citation made by the Watershed Administrator and apply the interpretation to particular fact situations. In addition, the Watershed Administrator may ask the Board of Adjustment to interpret any portion of this chapter.

— (B) The Board of Adjustment may, after having held a public hearing on the matter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed or make an interpretation of this chapter.

— (C) The Board of Adjustment shall have all the powers of the Watershed Administrator in making any order, requirement, decision, interpretation, or determination with reference to an appeal or petition.

— (D) An appeal may be taken by any person who has first appealed to and received a ruling from the Watershed Administrator. An appeal to the Board of Adjustment shall be made within 45 days of the decision made by the Watershed Administrator. The Water Administrator may make an appeal to the Board of Adjustment at any time.

— (E) Prior to making a decision on any such appeal or interpretation, the Board of Adjustment shall advertise and conduct a public hearing. Notice of the public hearing shall be made as follows: notice shall be sent by the county by first-class mail to the applicant at least ten days prior to the public hearing. Notice shall also be posted by the Watershed Administrator in a conspicuous location in the County Citizens Center at least ten days prior to the public hearing. Both notices shall indicate the nature of the public hearing and the date, time, and place at which it is to occur.

— (F) Before a petition for an administrative appeal or interpretation shall be heard and a public hearing conducted by the Board of Adjustment, an application shall be submitted to the Watershed Administrator along with a fee in accordance with fee schedule established by the Board of Commissioners. The fee shall be waived for any petition initiated by the Watershed Administrator or other official of the county who initiates a request on behalf of the county.

— (G) The filing of any application stays all proceedings unless the Watershed Administrator certifies that a stay in his or her opinion will cause imminent peril to life or property, or, that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of this chapter. In the event, proceedings shall not be stayed except by a restraining order, which may be granted by the Board of Adjustment, Board of Commissioners, or by a court of record.
Within three working days after having received an application for an appeal or interpretation, the Watershed Administrator shall determine whether the application is complete. If he or she determines that the application is not complete, he or she shall serve a written notice on the appellant or petitioner specifying the application's deficiencies. The Watershed Administrator shall take no further action on the application until the deficiencies are remedied. If the Watershed Administrator fails to so notify the appellant or petitioner, the application shall be deemed complete.

§ 154.57 MINOR VARIANCES.

(A) The Board of Adjustment shall have the power to authorize, in specific cases, minor variances from the terms of this chapter as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this chapter will result in practical difficulties or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. In addition, the county shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed where the variance is being considered.

(B) Applications for a variance shall be made on the proper form obtainable from the Watershed Administrator. All applications shall be accompanied by a map clearly identifying the subject property and all contiguous pieces of properties (i.e., all properties traversed and/or separated by a road, stream, right-of-way, or any similar natural or human-made configuration). In addition, a list of names and addresses of the owners of the properties, from the most official tax records, shall be provided by the applicant.

(C) The filing of any application stays all proceedings unless the Watershed Administrator certifies that a stay in his or her opinion will cause imminent peril to life or property, or, that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of this chapter. In the event, proceedings shall not be stayed except by a restraining order, which may be granted by the Board of Adjustment, Board of Commissioners, or by a court of record.

(D) Within three working days after having received an application for a minor variance, the Watershed Administrator shall determine whether the application is complete. If he or she determines that the application is not complete, he or she shall serve a written notice on the appellant or petitioner specifying the application's deficiencies. The Watershed Administrator shall take no further action on the application until the deficiencies are remedied. If the Watershed Administrator fails to so notify the petitioner, the application shall be deemed complete.

(E) Prior to making a determination on a minor variance, a public hearing will be held. Notice of the public hearing will be made in the following manner.

(1) Notices shall be sent by the county by first-class mail to the applicant, to owners of all contiguous pieces of property and to all other property owners whose properties lie within 200 feet of any portion of the property in question, to the clerks of all local governments having jurisdiction within that watershed, and to all major consumers of water whose point of intake lies within that watershed, at least ten days prior to the public hearing. The notice shall indicate the nature of the public hearing and the date, time, and place at which it is to occur.

(2) Notice shall also be posted by the Watershed Administrator in a conspicuous location in the County Citizens Center at least ten days prior to the public hearing. The notice shall indicate the nature of the public hearing and the date, time, and place at which it is to occur.

(3) A conspicuous sign shall also be placed by the county in a conspicuous location on the subject property(ies) indicating the nature of the public hearing and date, time and place at which it is to occur. The sign shall be placed on the property(ies) in question at least ten days prior to the public hearing.

(F) The Board of Adjustment, in considering an application for a minor variance, shall give due consideration to the following.
(1) The citing of other nonconforming or conforming uses of land or structures in the same or other districts, shall not be considered grounds for the granting of a variance.

(2) The request for a variance for a particular use expressly, or by inference, prohibited in the district involved, shall not be granted.

(G) The Board of Adjustment may only grant a minor variance, having first held a public hearing on the matter and having made each of the following determinations:

(1) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter;

(2) That the variance is in harmony with the general purpose and intent of this chapter and preserves its spirit;

(3) That in the granting of the variance, the public safety and welfare have been assured and substantial justice has been done; and

(4) That the reasons set forth in the application justify the granting of a variance, and that the variance is a minimum one that will make possible the reasonable use of land or structures.

§ 154.58 BOARD OF ADJUSTMENT DECISION.

(A) The Board of Adjustment shall hold a public hearing on an application for an appeal, interpretation, or minor variance no later than 45 days after the completed application has been filed with the Watershed Administrator. The Board of Adjustment shall decide on the matter which was presented at the public hearing within 31 days of the close of the public hearing.

(B) The concurrent vote of four-fifths of the voting members of the Board of Adjustment shall be necessary to make an interpretation of this chapter, reverse any order, requirement, decision, or determination of the Watershed Administrator, grant a minor variance, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter. In all matters coming before the Board of Adjustment, the applicant shall have the burden of providing clear, competent and material evidence in support of the application.

(C) All decisions of the Board of Adjustment shall be in writing and actions regarding variances shall be filed with the Watershed Administrator and with the Environmental Management Commission as prescribed in § 154.55(B)(6).

(D) The Board of Adjustment, in granting a minor variance, may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of the conditions and safeguards, when made a part of the items under which a variance is granted, shall be deemed a violation of this chapter and shall be punishable as prescribed in § 154.99.

(E) Unless otherwise authorized by the Board of Adjustment and included in its decision to grant a minor variance, any order of the Board of Adjustment in granting a minor variance shall expire, if a building permit, or watershed protection occupancy permit has not been obtained (or has been obtained but has since lapsed) at the end of one year from the date of its decision.

(Ord. passed —)

§ 154.59 APPEALS FROM THE BOARD OF ADJUSTMENT.

(A) An application for a rehearing shall be made in the same manner as provided for an original hearing within a period of 15 days after the date of the Board of Adjustment's decision. In addition, specific information to enable the Board of Adjustment to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically. A rehearing shall be denied by the Board of Adjustment if, in its judgment, the change in facts, evidence or conditions has not been proven. A public hearing shall not be required to be held by the Board of Adjustment to consider holding such a rehearing. Approval of the consideration shall,
however, require an affirmative vote of at least four voting members. In the event that the Board of Adjustment finds that a rehearing is warranted, it shall thereupon proceed as in the original hearing except that the application fee shall be waived.

—(B) Upon the denial of an original application, or upon the denial of an application from which a rehearing has been conducted, a similar application may not be filed for a period of one year after the date of denial of the original application.

—(C) Every decision of the Board of Adjustment shall be subject to review by the Superior Court Division of the General Courts of Justice of the state by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court within 30 days after the decision of the Board is filed in the office of the Watershed Administrator, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for the copy with the Watershed Administrator or the Chairperson of the Board of Adjustment at the time of the Board’s hearing of the case, whichever is later.

(Ord. passed —)

§ 154.60 MAJOR VARIANCES.

Applications for major variances shall be handled in the following manner.

—(A) An application for a major variance shall be on a form prescribed by the Board of Commissioners and shall be accompanied by a fee, the amount of which is in accordance with a fee schedule established by the county. An application shall be accompanied by a map clearly identifying the subject property and all contiguous pieces of properties (i.e., all properties traversed and/or separated by a road, stream, right-of-way, or any similar natural or human-made configuration). In addition, a list of names and addresses of the owners of the properties, from the most recent official tax records, shall be provided by the applicant.

—(B) Within three working days after having received an application for a major variance, the Watershed Administrator shall determine whether the application is complete. If he or she determines that the application is not complete, he or she shall serve a written notice on the petitioner specifying the application's deficiencies. The Watershed Administrator shall take no further action on the application until the deficiencies are remedied. If the Watershed Administrator fails to so notify the appellant or petitioner, the application shall be deemed complete.

—(C) Prior to making a recommendation on a major variance, a public hearing will be held by the Board of Adjustment. Notice of the public hearing will be made in the following manner.

— (1) Notices shall be sent by the county by first-class mail to the applicant, to owners of all contiguous pieces of property and to all other property owners whose properties lie within 200 feet of any portion of the property in question, to the clerks of all local governments having jurisdiction within that watershed, and to all major consumers of water whose point of intake lies within that watershed at least ten days prior to the public hearing. The notice shall indicate the nature of the public hearing and the date, time and place at which it is to occur.

— (2) Notice shall also be posted by the Watershed Administrator in a conspicuous location in the County Citizens Center at least ten days prior to the public hearing. The notice shall indicate the nature of the public hearing and the date, time and place at which it is to occur.

— (3) A conspicuous sign shall also be placed by the county in a conspicuous location on the subject property(ies) indicating the nature of the public hearing and date, time and place at which it is to occur. The sign shall be placed on the property(ies) in question at least ten days prior to the public hearing.

—(D) The Watershed Administrator, having determined that an application is complete, shall place the item on the agenda of a Board of Adjustment regular or special meeting occurring at least 14 days thereafter. The Board of Adjustment shall hold a public hearing on the application and, within 60 days from the close of the public hearing make a recommendation on the matter. The recommendation shall be in one of the following forms:
(1) Recommend approval of the major variance request;

(2) Recommend approval of the major variance request with fair and reasonable conditions attached; or

(3) Recommend denial of the major variance request.

(E) If the Board of Adjustment recommends that the major variance be denied, the variance shall be considered as being denied and no further action on the major variance request by the county nor by the Environmental Management Commission will be taken. Notification of the Board of Adjustment's action will be sent by first-class mail to the applicant within five working days of the Board of Adjustments' decision. An appeal to the Board of Adjustment's decision may be made as provided in § 154.59. The concurrent vote four-fifths of the voting members of the Board of Adjustment shall be necessary to make a recommendation for approval of a major variance. The Board of Adjustment shall conduct the public hearing in a quasi-judicial manner. All persons giving evidence shall be sworn in by the Chairperson. The recommendation made by the Board of Adjustment shall be based on the testimony given at the public hearing. The Board may recommend that a variance be granted only after each of the following findings are found in the affirmative:

(1) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter;

(2) The variance is in harmony with the general purpose and intent of this chapter and preserves its spirit;

(3) In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done; and

(4) The reasons set forth in the application justify the granting of a variance, and that the variance is a minimum one that will make possible the reasonable use of land or structures.

(F) If the Board of Adjustment make a recommendation to approve a major variance, the recommendation shall be forthwith forwarded, along with all supporting information, to the Environmental Management Commission. Information which shall be forwarded shall include the following:

(1) The variance application;

(2) Evidence that proper notification of the Board of Adjustment's public hearing has been made;

(3) A summary of evidence presented including comments from other local governments;

(4) Proposed findings and exceptions; and

(5) The Board of Adjustment's recommendation, including any conditions attached as a requisite for approval.

(G) If the Environmental Management Commission approves the major variance application, any conditions, stipulations or modifications it requires shall become part of any permit subsequently issued by the county pertinent to that development. The Watershed Administrator shall notify the applicant by first-class mail within five working days of receipt of the Environmental Management Commission's decision. Subsequent to the approval of a variance application by the Environmental Management Commission, the Watershed Administrator shall issue a watershed permit for the development thus authorized so long as the application for the watershed permit is made within 60 days after the Watershed Administrator has notified the applicant of the Environmental Management Commission's decision and so long as the development is in accordance with all other provisions of this chapter. In areas of the county which are zoned by the county, a zoning permit may be issued by the Zoning Administrator in lieu of the watershed permit.

(H) If the Environmental Management Commission overturns the Board of Adjustment's recommendation to approve a major variance, the Watershed Administrator shall not accept an application for a similar variance request affecting the same property(ies) for a period of one year following the date of denial. Notification of the decision of the Environmental Management Commission
§ 154.61 PROCEDURES FOR OBTAINING CONDITIONAL APPROVAL.

(A) Generally. In any WS-II and WS-III Watershed District and in the Catawba/Mountain Island Lake, Catawba/Hoyle Creek, Catawba/Lake Wylie and Catawba/South Fork Catawba River WS-IV watersheds, up to 10% of the gross land area within that portion of a watershed which lies within the jurisdiction of this chapter (as of 1-1-1994) and which is outside a designated critical area, may be developed with nonresidential uses having built-upon areas of up to 70%. Approval of the developments on a project-by-project basis shall be subject to the issuance of a conditional use permit by the Board of Commissioners, having first been reviewed by the Planning Board. The following procedures shall be followed by applicants seeking the conditional use approval. Conditional use approval by the Board of Commissioners shall also be required for use of the high density option. The following outline procedures to be followed for applying for the conditional use approval. Additional information pertaining to the high density option is found in § 154.62.

(B) Application. A conditional use permit application shall be filed in duplicate with the Watershed Administrator. The application shall be accompanied by a site plan, drawn to scale, and necessary supporting text which shall include the following information:

1. Name, address, and phone number of the property owner (or his or her agent) and the property identification number of the property. (The property owner or his or her authorized agent are the only two parties who may initiate a request for the conditional use permit);

2. A boundary survey and vicinity map, showing the property's total acreage, zoning classification(s), if any, watershed district classification, general location in relation to major streets, railroads and/or waterways, date and north arrow;

3. The owners' names and addresses, tax parcel numbers and existing land use(s) of all adjoining properties;

4. Proposed use of all land and structures;

5. Proposed number and location of all structures, their approximate area and their approximate exterior dimensions; location and dimension of all other impervious surface areas;

6. All existing easements, reservations, and rights-of-way;

7. Proposed phasing, if any, and approximate completion time for the project;

8. Delineation of areas within the regulatory floodplain as shown on the official Federal Emergency Management Agency (FEMA) Flood Hazard Boundary Maps of the county;

9. A description of all buffer areas required by these regulations and/or proposed by the applicant;

10. Traffic, parking, and circulation plans, showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets;

11. Location of watershed district boundaries; and

12. Estimated built-upon areas.

(C) Supplemental application information. In the course of evaluating the proposed use, the Planning Board or Board of Commissioners may request additional information from the applicant. A request for the additional information shall stay any time limits for staff review of the petition under division (E) below and shall stay any further consideration of the application by the Board of Commissioners or Planning Board. This information may include (but not be limited to) the following:

1. Existing and proposed topography at four-foot contour intervals or less; and

2. The existing and proposed location of all water and sewer lines and fire hydrants intended to serve the proposed development.
—(D) Fee. No application shall be considered complete unless it contains or is accompanied by all items listed in division (B) above (and as may be required in division (C) above) and a fee, in accordance with a fee schedule approved by the Board of Commissioners for the submittal of conditional use permit applications.

—(E) Submitted application. All complete applications shall be submitted to the Watershed Administrator at least ten days prior to the Planning Board meeting at which it is to be reviewed. This requirement may be waived by a unanimous vote of the Planning Board membership present at a meeting of the Planning Board occurring less than ten days prior to the date of submission. Except as otherwise permitted, in no case shall the meeting at which the Planning Board initially reviews the application occur greater than 60 days after the required number of copies of a complete application have been submitted by the applicant to the Watershed Administrator. The Planning Board shall have a maximum of 45 days from the date at which it initially met to review the application to submit its recommendation to the Board of Commissioners. If a recommendation is not made during the 45-day period (except as indicated in division (C) above), the application shall be forwarded to the Board of Commissioners without a recommendation from the Planning Board.

—(F) Board of Commissioners’ decision.

— (1) Once a recommendation has been received from the Planning Board, or the 45-day Planning Board review period has expired, the Board of Commissioners shall schedule a public hearing concerning the application for a conditional use permit. Notice of the public hearing shall be as prescribed in § 154.60(C).

— (2) In approving an application for a conditional use permit, the Planning Board may recommend and the Board of Commissioners may attach fair and reasonable conditions to the approval. Any conditions shall relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, amount of impervious surface coverage and other matters that the Board of Commissioners may find appropriate or the petitioner may propose. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Board of Commissioners. In no instance shall any of these conditions be less restrictive than any requirements which would pertain to that particular development found elsewhere in this chapter.

—(G) Burden of proof. The applicant has the burden of producing competent, material and substantial evidence tending to establish the facts and conditions which divisions (H)(2), (H)(4), and (H)(5) below require. If any persons submits evidence allegedly contrary to any of the facts or conditions listed in divisions (H)(1) and (H)(3) below, the burden of proof for overcoming the evidence shall rest with the applicant.

—(H) Findings of fact. The Board of Commissioners may issue a conditional use permit only after having evaluated an application and has determined that:

— (1) The use will not materially endanger the public health or safety if located where proposed and developed according to plan;

— (2) The use meets all required conditions and specifications;

— (3) The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity;

— (4) The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the approved Land Development Plan for the area in question; and

— (5) The proposed development will substantively increase the ad valorem tax base of the county or otherwise significantly promote or expand economic development and/or job opportunities available to the county residents. (This finding of fact shall only be required for those projects employing the 10/70 option in WS-II, WS-III, and WS-IV Districts.)
---(I) Effect of approval.
(1) If an application for a conditional use permit is approved by the Board of Commissioners, the owner of the property shall have the ability to develop the use in accordance with the stipulations contained in the conditional use permit or develop the property otherwise consistent with the terms of this chapter for the Watershed District in which the property is located.
(2) Any conditional use permit so authorized shall be perpetually binding to the property included in the permit unless subsequently changed or amended by the Board of Commissioners. However, minor changes in the detail of the approved plan which will not alter the basic relationship of the proposed development to adjacent property, and will not increase the amount of built-upon area may be made by the Watershed Administrator. The changes shall be deemed to be "minor changes." The minor changes may be approved by the Watershed Administrator on a one-time basis only for any conditional use permit approved by the Board of Commissioners. Further changes to the development shall require issuance of a new conditional use permit by the Board of Commissioners.

---(J) Twelve-month year limitation on re-application.
(1) If a request for conditional use permit is denied by the Board of Commissioners, a similar application for the same property or any portion thereof shall not be filed until the expiration of a 12-month period from the date of the most recent denial by the Board of Commissioners. This waiting period shall not be applicable where the application for a conditional use permit is substantially different from the original application.
(2) For the purpose of this division (J), the following definition shall apply unless the context clearly indicates or requires a different meaning.

SUBSTANTIALLY DIFFERENT. Shall mean:
1. The proposed principal use is different than the use contained in the original application; or
2. The built-upon area of the proposed development is 10% or more smaller than contained in the original application.

---(K) Change in conditional use permit. Any request to substantially change the conditional use permit once it has been issued must first be reviewed by the Planning Board in accordance with division (E) above. The Board of Commissioners may thereafter change or amend any previously approved conditional use permit, only after having held a public hearing. Notice of public hearing shall be in accordance with § 154.60(C). Amendment by the Board of Commissioners of a previously issued conditional use permit shall be subject to the same considerations as provided for in division (H) above.

---(L) Implementation of conditional use permit. Unless the Board of Commissioners issues a conditional use permit which either is specifically exempt from any time constraints or has some other specified time period for implementation, the applicant shall have a period of 12 months from date of issuance of the conditional use permit to secure a building permit for the project. If the applicant fails to obtain a building permit within the time allowed or if a building permit is secured but has lapsed at the end of the 12-month period (with the project having not been completed), the Watershed Administrator shall notify the applicant of such a finding, and within 60 days of the notification, the Planning Board shall make a recommendation concerning the decision of the conditional use permit to the Board of Commissioners. The Board of Commissioners, after having conducted a public hearing to consider the decision, may then rescind the conditional use permit, or extend the life of the conditional use permit for a specified period of time or otherwise modify the terms of the conditional use permit. Due notice of the public hearing shall be given as prescribed in § 154.60(C).

(Ord. passed - -)

§ 154.62 HIGH DENSITY OPTION.
---(A) General requirements.
(1) In any designated WS-IV watershed, any development (other than a single-family residential development) may occur using the high-density option subject to approval by the Board of
Commissioners under the rules and guidelines herein outlined. The use of the high density option for any particular project shall be subject to conditional use approval by the Board of Commissioners and, where deemed necessary by the Board of Commissioners, may be submitted to the Division of Environmental Management's Water Quality Section for review and recommendation.

(2) The use of the high density option for any single-family residential development shall be prohibited. Use of the high density option within any WS II or WS III district shall also be prohibited.

(B) High density options development standards. The Board of Commissioners may approve a project using the high density option (other than one for a single-family residential development) consistent with the following standards.

(1) If the area proposed to be developed lies in a designated WS IV Critical Area watershed, engineered storm water controls shall be used to control runoff from the first inch of rainfall for development which contains a built-upon area of 24% through 50%.

(2) If the area proposed to be developed lies in a designated WS IV Protected Area watershed, engineered storm water controls shall be used to control runoff from the first inch of rainfall for development which contains a built-upon area of 24% through 70% (except that projects not using curb and gutter may be allowed to have built upon areas of up to 36% using the low-density option).

(C) Application.

(1) An application for authorization to use the high density option shall be signed by the applicant and the consulting engineer and shall also be accompanied by the following:

(a) Two reproducible copies of the development plan within the drainage basin containing all applicable and required information;

(b) Two reproducible copies of the plans and required specifications of the storm water control structure;

(c) When required by law, written verification that a soil erosion and sedimentation control plan which has been approved by the appropriate state agency; and

(d) An application fee, in accordance with a fee schedule approved by the Board of Commissioners.

(2) Approval of the high density option by the Board of Commissioners shall necessitate conditional use approval. Guidelines for applying for and receiving the approval are found in § 154.61(B) through (K). Wherever the provisions of the regulations contained herein conflict with those found in § 154.61, the more stringent shall apply.

(D) Inspection fees. Inspection of all storm water control structures will be conducted: prior to the structure being placed into operation; annually once the storm water control structures have been approved by the county; and any time after improvements, modifications or changes to the structures have been made by the owning entity. A fee, in accordance with a fee schedule approved by the Board of Commissioners, shall be required to be paid by the owning entity prior to each such inspection being conducted.

(E) Operations and Maintenance Plan.

(1) Any storm water control structure approved by the Board of Commissioners shall be predicated on the developer and the county entering into a binding Operations and Maintenance Plan. The Plan shall require the owning entity of the structure(s) to maintain, repair, and, if necessary, reconstruct the structure(s) in accordance with the Operation and Maintenance Plan provided by the developer to the county. The Plan must be approved by the Board of Commissioners prior to or in conjunction with approval of the high density option for the project.

(2) A separate plan must be provided by the developer for each storm water control structure, containing, at a minimum, what operation and maintenance actions are needed and will be undertaken, what specific quantitative criteria will be used for determining when those actions are to be taken, and who is responsible for the actions. The Plan shall clearly indicate what steps will be taken for restoring a storm water control structure to design specifications if a failure occurs.
Amendments to the Plan and/or specifications of the storm water control structure(s) may only be approved by the Board of Commissioners. Proposed changes shall be prepared by a state-registered professional engineer or landscape architect (to the extent that the General Statutes allow) and submitted to the county for approval. The amendments shall be accompanied by all information and fees prescribed in division (D) above. Approval of the amendments shall not require Planning Board review nor a new public hearing, unless either or both are deemed necessary by the Board of Commissioners.

If the Board of Commissioners finds that the Plan, once approved, is inadequate for any reason, the Watershed Administrator shall notify the owning entity of any changes mandated by the county and a time-frame in which changes to the Plan shall be made.

Posting of financial securities. All new storm water control structures approved employing the high density option shall be conditioned on the posting of adequate financial assurance for the purpose of constructing, maintaining, repairing, or reconstructing the devices.

If the Board of Commissioners approves the use of the high density option for a particular project, it may do so only after the applicant has posted a surety bond, cash, or equivalent security, in an amount not less than one and twenty-five hundredths times the cost of constructing the necessary storm water control structure(s). The financial security shall be made payable to the county and shall be in a form prescribed by the Board of Commissioners. All construction costs shall be verified by the county and the county may assess the applicant for actual costs associated with the verification. The total cost of the storm water control structure shall include the value of all materials such as piping and other structures; seeding and soil stabilization; design and engineering; and grading, excavation, fill, and the like. The costs shall not be prorated as part of a larger project, but rather shall be priced as an individual project.

Once the storm water control structure(s) has been constructed and inspected in the manner provided in division (H) below, and approved by the Board of Commissioners, the Board of Commissioners may authorize the release of up to 75% of the surety bond or other equivalent device outlined in division (F)(1) above. The remaining portion of the surety bond or equivalent device may be released to the owning entity in accordance with division (H)(1)(c) below.

Prior to the release, however, the applicant shall be required to deposit with the county either cash or similar instrument approved by the Board of Commissioners in an amount equal to 15% of the total construction cost (as defined in division (F)(1) above) or 100% of the cost of maintaining, repairing, or reconstructing the structure over a 20-year period, whichever is greater. The estimated cost of maintaining the storm water control structure shall be consistent with the approved operation and maintenance plan provided by the applicant as outlined in division (E) above.

Default.

Upon default of the applicant to complete the storm water control structure as spelled out in the performance bond or other equivalent security, the Board of Commissioners may obtain and use all or any portion of the funds necessary to complete the improvements based on actual construction costs. The Board of Commissioners shall return any funds not spent in completing the improvements to the owning entity.

Upon default of the owning entity to maintain, repair, and, if necessary, reconstruct the storm water control structure in accordance with the approved Operations and Maintenance Plan, the Board of Commissioners shall obtain and use any portion of the cash security outlined in division (F)(3) above to make necessary improvements based on the actual costs borne by the county to make the improvements.

Inspections.

Inspections of newly constructed storm water structures. All new storm water control structures shall be inspected by the county after the owning entity notifies the Watershed Administrator that all construction has been completed. At this inspection the owning entity shall provide:
(a) A signed deed, related easements, and survey plat for the structure in a manner suitable for filing with the Register of Deeds, if ownership of the storm water control structure(s) is to be transferred to another person, firm, or entity. (This requirement will be waived for any repair work when the deed has previously been filed.);

(b) A certification by an engineer or landscape architect (to the extent allowable by the General Statutes) stating that the storm water control structure is complete and consistent with the approved Plan and all specifications previously stipulated by the county;

(c) The Watershed Administrator shall forthwith present the materials submitted by the owning entity along with the county's inspection report to the Board of Commissioners for their review and approval. If the Board of Commissioners approves the inspection report and accepts the certification, deed and easements, the Watershed Administrator shall forthwith file the deed with the Register of Deeds. Release of up to 75% of the surety bond or equivalent security as called for in division (F)(1) above shall be made in a manner as prescribed in divisions (F)(2) and (F)(3) above;

(d) If deficiencies are found as a result of the inspection, the Board of Commissioners shall direct the owning entity to make necessary improvements. Reinspections will be made thereafter. No release of any funds shall be made by the county until all deficiencies are properly addressed to the county's satisfaction;

(e) No sooner than one year after approval of the storm water control structure(s) by the county, the owning entity may petition the Board of Commissioners to release the remaining value of the posted bond or security called for in division (F)(1) above. Upon receipt of the petition, the county shall forthwith inspect the storm water control structure to determine whether the structure is performing as designed and intended. Once the inspection is made, the Watershed Administrator shall forthwith present the inspection report and recommendations to the Board of Commissioners; and

(f) An occupancy permit shall not be issued for any structure within the permitted development until the Board of Commissioners approves the storm water control structure in the manner as herein prescribed.

(2) Annual inspection of storm water structures.

(a) All storm water control structures shall be inspected by the county on an annual basis to determine whether the structures are performing as designed and intended. Records of inspection shall be maintained on forms approved or supplied by the State Division of Environmental Management. Annual inspections shall begin within one year of approval of the Board of Commissioner's approval of the filing date of the deed for the storm water control structure. A fee, in accordance with a fee schedule adopted by the Board of Commissioners shall be charged to the owning entity for annual inspections (and re-inspections) made. A copy of each inspection report shall be filed with the Watershed Administrator.

(b) In the event the county's report indicates the need for corrective action or improvements, the Watershed Administrator shall notify the owning entity of the needed improvements and the date by which the improvements are to be completed. All improvements shall be consistent with the adopted Operations Plan and specifications. Once the improvements are made, the owning entity shall forthwith contact the Watershed Administrator and ask that an inspection be made.

(I) Vegetation and grounds management.

(1) Landscaping and grounds management shall be the responsibility of the owning entity of the structure(s). However, vegetation shall be not established or allowed to mature to the extent that the integrity of the structure(s) is in any way threatened or diminished, or to the extent of interfering with any easement of access to the structure.

(2) Except for routine landscaping and grounds maintenance, the owning entity shall notify the Watershed Administrator prior to any repair or reconstruction of the structure. All improvements shall be consistent with the approved Plan and specifications for that structure. After notification by the owning entity, county staff shall inspect the completed improvements and inform the owning entity of
any required additions, changes, or modifications needed to complete the improvements. A time period for making the changes shall also be stipulated by the county. A fee, in accordance with a fee schedule adopted by the Board of Commissioners, shall be charged to the owning entity for each inspection (or reinspection) made.

—(f) Storm water control structure specifications.

—(1) All storm water control structures shall be designed by either a state-registered professional engineer or landscape architect (to the extent that the General Statutes allow).

—(2) All storm water control structures shall use wet detention ponds as the primary treatment system. Wet detention ponds shall be designed for specific pollutant removal according to modeling techniques approved by the State Division of Environmental Management. Specific requirements for these systems shall be in accordance with the following criteria:

—(a) Wet detention ponds shall be designed to remove a minimum of 85% of total suspended solids in the permanent pool and storage runoff from a one-inch runoff from the site above the permanent pool;

—(b) The designed runoff storage volume shall be above the permanent pool;

—(c) The discharge rate from these systems following the one-inch rainfall design storm shall be such that the runoff does not draw down to the permanent pool level in less than two days and that the pond is drawn down to the permanent pool level within at least five days;

—(d) The mean permanent pool depth shall be a minimum of three feet;

—(e) The inlet structure shall be designed to minimize turbulence using baffles or other appropriate design features;

—(f) Vegetative filters shall be constructed for the overflow and discharge of all storm water wet detention ponds and shall be at least 30 feet in length. The slope and width of the vegetative filter shall be determined so as to provide a non-erosive velocity of flow through the filter for a ten-year, 24-hour storm with a ten-year, one-hour intensity with a slope of 5% or less. Vegetation in the filter shall be natural vegetation, grasses, or artificially planted wetland vegetation appropriate for the site characteristics;

—(g) The structure and vegetative filter shall be designed to minimize vector attraction. Vegetative filters if designed to remain wet under normal conditions should have adequate dry weather flow to reduce the attraction of water-borne insects; and

—(h) An adequate drain shall be provided at the low point of each wet pond to facilitate watering for routine maintenance.

—(3) (a) In addition to the required vegetative filters, all land areas outside of the pond shall be provided with ground cover sufficient to restrain erosion within 30 days after any land disturbance.

—(b) Upon completion of the storm water control structure, a permanent ground cover shall be established and maintained as part of the maintenance agreement described in division (E) above.

—(4) A description of the area containing the storm water control structure shall be prepared and filed, consistent with division (II)(1) as a separate deed, with the Register of Deeds along with any easements necessary for general access to the storm water control structure, should ownership (and maintenance) of the storm water control structure be transferred to another person, firm, or entity. The deeded area shall include the detention pond, vegetative filters, all pipes and water control structures, berms, dikes, and the like, and sufficient area to perform inspections, maintenance, repairs, and reconstruction.

—(5) The previous portions of any storm water control structure(s) approved by the Board of Commissioners shall not be included when computing built-upon areas.

(Ord. passed —) Penalty. see § 154.99

§ 154.99 PENALTY.
(A) Any person, firm, or corporation violating the provisions of this chapter shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount not to exceed $50 and/or imprisoned for a period not to exceed 30 days. Each day of violation shall be considered a separate offense, provided that the violation of this chapter is not corrected within 30 days after notice of the violation is given.

(B) In addition to the other remedies cited in this chapter for the enforcement of its provisions, and pursuant to G.S. § 153A-123, the regulations and standards in this chapter may be enforced through the issuance of civil penalties by the Watershed Administrator.

(C) Subsequent citations for the same violation may be issued by the Watershed Administrator if the offender does not pay the citation (except as otherwise provided in a warning citation) after it has been issued unless the offender has sought an appeal to the actions of the Watershed Administrator through the Board of Adjustment. Once the ten-day warning period has expired, each day which the violation continues shall subject the violator to additional citations to be issued by the Watershed Administrator.

(D) The following penalties are hereby established:

Warning citation — Correct violation within 10 days
First citation — $10
Second citation for same offense — $25
Third and subsequent citations for same offense — $50

(E) If the offender fails to pay the civil penalties within five days after having been cited, the county may recover the penalties in a civil action in the nature of debt.

(F) In addition, pursuant to G.S. § 153A-123, the county may seek a mandatory or prohibitory injunction and an order of abatement commanding the offender to correct the unlawful condition upon or cease the unlawful use of the subject premises.

(G) The above remedies are cumulative, and the county may pursue any or all of the same at its discretion. Each day that the violation exists shall constitute a separate and distinct offense.

(Ord. passed ——)

Section 25. Chapter 155 of the Lincoln County Code of Ordinances is amended as follows:

§ 155.01 ADOPTION BY REFERENCE.

The county's subdivision regulations as set forth in the Lincoln County Unified Development Ordinances, as amended, are hereby adopted by reference and incorporated herein as if set out in full.

Section 26. Chapter 156 of the Lincoln County Code of Ordinances is amended as follows:

§ 156.01 ADOPTION BY REFERENCE.

The county's zoning regulations code as set forth in the Lincoln County Unified Development Ordinances, as amended, are hereby adopted by reference and incorporated herein as if set out in full.

Section 27. This ordinance shall become effective the 22nd day of March, 2022.
Adopted this the 21st day of March, 2022.

________________________________________
Carrol D. Mitchem, Chairman
Lincoln County Board of Commissioners
(SEAL)

ATTEST:
_____________________________________
Amy Atkins
Clerk to the Board of Commissioners

Revisions to the Chapter 32 of the Lincoln Co. Ordinances Dealing with Emergency Management: Megan Gilbert presented the Revisions to the Chapter 32 of the Lincoln Co. Ordinances dealing with Emergency Management.

These revisions are made to bring the Ordinances more in compliance with Chapter 166A of the General Statutes and to incorporate additional criteria and protections for hazardous waste incidents. A separate fee schedule has been submitted for approval with the upcoming budget.

Ron Rombs said the revisions are to bring the Ordinance into compliance with the new Statutes and to add the ability for the county to be able to collect and recover expenses associated with the mitigation of hazmat incidents.

Mark Howell said this was brought to his attention by the Lincoln County Fire Rescue Association as well as the Lincoln County Emergency Planning Committee concerning hazardous materials.

Megan Gilbert said this will become effective July 1.

UPON MOTION by Commissioner Cesena, the Board voted unanimously to approve an Ordinance Amending Chapter 32 of the Lincoln County Code of Ordinances.

. AN ORDINANCE AMENDING CHAPTER 32 OF THE LINCOLN COUNTY CODE OF ORDINANCES

WHEREAS, N.C. General Statute §166A-19.15 provides that the governing body of each County is responsible for emergency management within the geographical limits of such County, and that all emergency management efforts within the county will be coordinated by the County, including activities of the municipalities within the County; and
WHEREAS, N.C. General Statute §166A-19.15 authorizes the governing board of each county to establish and maintain an emergency management agency for the purposes contained in N.C. General Statute §166A-191; and

WHEREAS, Chapter 32 of the Lincoln County Code of Ordinances is the ordinance that controls Emergency Management in Lincoln County at this time; and

WHEREAS, Chapter 32 of the Lincoln County Code of Ordinances needs to be amended and supplemented to include additional criteria and guidelines for emergency management in Lincoln County, including hazardous materials; and

WHEREAS, the amendments to the Lincoln County Code of Ordinances set forth in this ordinance are policy neutral.

NOW, THEREFORE, BE IT ORDAINED that Chapter 32 of the Lincoln County Code of Ordinances is amended as follows:

Section 1. Chapter 32 of the Lincoln County Code of Ordinances shall be deleted in its entirety, and the following shall be inserted:

Chapter 32 - EMERGENCY MANAGEMENT AND EMERGENCY SERVICES


ARTICLE I. GENERAL

§ 32.01. Short title.

This chapter shall be known and may be cited and referred to as "The Lincoln County Emergency Management Ordinance."

§ 32.02. Purpose statement.

The purposes of this Chapter are to set forth the authority and responsibility of Lincoln County in prevention of, preparation for, response to, and recovery from natural or man-made emergencies or hostile military or paramilitary action and to do the following:

(1) Reduce vulnerability of people and property of this county to damage, injury, and loss of life and property.

(2) Prepare for prompt and efficient rescue, care, and treatment of threatened or affected persons.

(3) Coordinate with state and federal agencies for the orderly rehabilitation of persons and restoration of property.

(4) Provide for cooperation and coordination of activities relating to emergency mitigation, preparedness, response, and recovery among agencies and officials of Lincoln County and with similar agencies and officials of other counties, with state and federal governments, with interstate organizations, and with other private and quasi-official organizations.

§ 32.03. Definitions.

The following definitions apply in this chapter:

Chair of the Board of County Commissioners. The Chair of the Lincoln County Board of County Commissioners or, in case of the Chair's absence or disability, the person authorized to act in the Chair's stead. Unless the Board of Commissioners has specified who is to act in lieu of the Chair with respect
to a particular power or duty set out in this chapter, this term shall mean the person generally authorized
to act in lieu of the Chair.

*County-authorized emergency management personnel.* Any person duly registered, identified and
appointed by the coordinator of the county emergency management agency and assigned to participate
in the emergency management activity.

*Emergency.* An occurrence or imminent threat of widespread or severe damage, injury, or loss of life
or property resulting from any natural or man-made accidental, military, paramilitary, weather-related,
public health, explosion-related, riot-related cause, or technological failure or accident, including but
not limited to, a cyber-incident, an explosion, a transportation accident, a radiological accident, or a
chemical or other hazardous material incident.

*Emergency area.* The geographical area covered by a state of emergency.

*Emergency management.* Those measures taken by the populace and governments at federal, state, and
local levels to minimize the adverse effect of any type emergency, which includes the never-ending
preparedness cycle of planning, prevention, mitigation, warning, movement, shelter, emergency
assistance, and recovery.

*Emergency management agency.* The Lincoln County agency charged with coordination of all
emergency management activities for its jurisdiction.

*Hazardous materials emergency response team or hazmat team.* An organized group of persons
specially trained and equipped to respond to and control actual or potential leaks or spills of hazardous
materials.

*Hazardous materials.* Any material defined as a hazardous substance under 29 Code of Federal
Regulations, 1910.120(a)(3).

*Hazardous materials incident or hazardous materials emergency.* An uncontrolled release or
threatened release of a hazardous substance requiring outside assistance by a local fire department or
hazmat team to contain and control.

*Political subdivision.* Counties and incorporated cities, towns, and villages.

*Responsible party.* A person or entity who causes, directly or indirectly, the release of a hazardous
material creating a hazardous materials incident who shall be liable for all reasonable costs incurred in
responding to and mitigating the incident pursuant to this Chapter, and the Lincoln County fee schedule.
In the event that the responsible party cannot be determined or is unable to pay, the owner of or person
in possession of hazardous materials at the time of the incident shall be the person liable for such costs.

*State of emergency.* A finding and declaration by the Board of Commissioners or the Chair of the Board
of Commissioners, acting under the authority of N.C.G.S. § 166A-19.22, that an emergency exists.

§§ 32.04 thru 32.30. Reserved for future codification.

**ARTICLE II. EMERGENCY MANAGEMENT AGENCY**

§ 32.31. Authority.

Pursuant to N.C.G.S. § 166A-19.15, a county emergency management agency has previously been, and
is hereby re-established, as a division of Lincoln County Emergency Services.
§ 32.32. Establishment; coordinator.

The Lincoln County Director of Emergency Services serves as the Coordinator of the emergency management agency.

§ 32.33. Intent.

(a) The intent of this Article is to re-establish an agency that will ensure the complete and efficient utilization of all of Lincoln County’s resources to combat emergencies as defined in this Chapter, and under North Carolina law.

(b) The emergency management agency will be the coordinating agency for all activity in connection with emergency management. It will be the instrument through which the Lincoln County Board of Commissioners may exercise its authority and discharge the responsibilities vested in it during an emergency.

(c) This Chapter shall not relieve any other Lincoln County department of the moral responsibilities or authority given to it in the county charter, local ordinances, or state law nor will it adversely affect the work of any volunteer agency organized for relief in emergencies.

§ 32.34. Organization and appointments.

(a) The Lincoln County Director of Emergency Services shall serve as the Coordinator of the emergency management agency as required by G.S. 166A-19.15.

(b) The Coordinator shall designate and appoint Deputy Coordinators to assume the duties of the Coordinator in his absence or inability to act.

§ 32.35. Duties and responsibilities of coordinator.

(a) For the purposes of this article, the Coordinator shall:

   (1) Be responsible to the Board of Commissioners in regard to all phases of emergency management activity.

   (2) Be responsible for the planning, coordination and operation of the emergency management activities in Lincoln County.

   (3) Maintain liaison with the state and federal authorities and the authorities of other political subdivisions to ensure the most effective operation of the emergency management plans.

(b) The Coordinator's duties shall include, but not be limited to, the following:

   (1) Coordinating the recruitment of volunteer personnel and agencies to augment the personnel and facilities of Lincoln County for emergency management purposes. Such services from persons outside of government may be accepted by Lincoln County on a volunteer basis.

   (2) Developing and coordinating plans for the immediate use of all facilities, equipment, manpower and other resources of Lincoln County for the purpose of minimizing or preventing damage to persons and property; and protecting and restoring to usefulness governmental services and public utilities necessary for the public health, safety, and welfare.
(3) Enter into agreements with owners or persons in control of buildings or other property for the use of such buildings or other property for the emergency management purposes and designating suitable buildings as public shelters.

(4) Through public informational programs, educating the populace as to actions necessary and required for the protection of their persons and property in an emergency, either impending or present.

(5) Conducting drills and exercises to ensure the efficient operation of the emergency management forces and to familiarize residents with emergency management regulations, procedures and operations.

(6) Coordinating the activity of all other public and private agencies engaged in any emergency management activities.

(7) When personnel, equipment, or supplies for an emergency function are not available within the local government, the coordinator is authorized to seek assistance from other governments or from persons outside of government.

(8) The assignment of duties, when of a supervisory nature, shall also include the granting of authority for the persons to carry out duties prior to, during, and after the occurrence of an emergency.

(9) The invoicing of persons liable for hazardous materials release, and, in the event of non-payment, the discretion to proceed with legal action to recover costs.

(10) To coordinate the voluntary registration of functionally and medically fragile persons in need of assistance during an emergency either through a registry established by Lincoln County, the City of Lincolnton or by the State of North Carolina. All records, data, information, correspondence, and communications relating to the registration of persons with special needs or of functionally and medically fragile persons obtained pursuant to this subdivision are confidential and are not a public record pursuant to N.C.G.S. §132-1 or any other applicable statute, except that this information shall be available to emergency response agencies, as determined by Lincoln County Director of Emergency Services. This information shall be used only for the purposes set forth in this subdivision.

§ 32.36. Emergency management plans.

(a) Comprehensive emergency management plans shall be adopted by resolution of the Board of Commissioners. In the preparation of these plans as they pertain to county organization, it is intended that the services, equipment, facilities, and personnel of all existing departments and agencies shall be utilized to the fullest extent. All departments and agencies have the responsibility to perform the functions assigned by these plans and be in a current state of readiness at all times. These plans shall have the effect of law whenever an emergency, as defined in this article, has been declared.

(b) The Coordinator shall prescribe those positions within the emergency organizational structure for which lines of succession are necessary. In each instance, the responsible person will designate and keep on file with the Coordinator a current list of three persons as successors to his position. The list will be in order of succession and will designate persons best capable of carrying out all assigned duties and functions.

(c) Any individual assigned responsibility in the plans shall be responsible for carrying out all assigned duties and functions. Duties include the organization and training of assigned employees and, where needed, volunteers. Each individual shall formulate the standing operating procedure to implement the plans.
(d) The Coordinator may submit recommended changes to the Board of Commissioners.

§ 32.37. Liability.

(a) All functions and other activities relating to emergency management as provided for in this Chapter or elsewhere in the Lincoln County Code of Ordinances are hereby declared to be governmental functions. Except in cases of willful misconduct, gross negligence, or bad faith, any emergency management worker, firm, partnership, association, corporation, or agent complying with or reasonably attempting to comply with this article or any order, rule, or regulation promulgated pursuant to the provisions of this article or pursuant to any ordinance relating to any emergency management measures enacted by Lincoln County, shall not be liable for the death of or injury to persons, or for damage to real or personal property as a result of any such activity.

(b) Any person, firm, or corporation, together with any successors in interest, if any, owning or controlling real or personal property who, voluntarily or involuntarily, knowingly or unknowingly, with or without compensation, grants a license or privilege or otherwise permits or allows the designation or use of the whole or any part or parts of such real or personal property for the purpose of activities or functions relating to emergency management as provided for in this Chapter or elsewhere in the Lincoln County Code of Ordinances shall not be civilly liable for the death of or injury to any person or the loss of or damage to the property of any persons where such death, injury, loss, or damage resulted from, through, or because of the use of the real or personal property for any of the above purposes, provided that the use of the property is subject to the order or control of or pursuant to a request of the county government.

§§ 32.38 thru 32.65. Reserved for future codification.

ARTICLE III. STATE OF EMERGENCY

§ 32.66. Authority.

(a) A state of emergency may be declared by the Chairperson of the Board of Commissioners when he or she finds that an emergency exists. The proclamation shall be in writing. The Chairperson shall take reasonable steps to give notice to the public of the terms of the proclamation. The Chairperson shall send reports of the substance of the proclamation to the mass communications media which serve the affected area. The Chairperson shall retain a text of the proclamation and provide copies upon request.

(b) The proclamation declaring a state of emergency shall include a definition of the area constituting the emergency area. The emergency area of a state of emergency declared by Lincoln County shall not include any area within the corporate limits of the City of Lincolnton or any other municipality, or within any area of Lincoln County over which the City of Lincolnton or any other municipality has jurisdiction to enact general police-power ordinances, unless the municipality's governing body or mayor consents to or requests the state of emergency's application.

(c) The Board of Commissioners or Chair of the Board of Commissioners, if it has been requested to do so by a mayor of the City of Lincolnton, or another municipality within the County, may by declaration extend the emergency area of a state of emergency declared by the requesting municipality to any area within the County in which the Board of Commissioners or Chair of the Board of Commissioners determines it to be necessary to assist in the controlling of the emergency within the requesting municipality. The extension may be with respect to one or more of the prohibitions and restrictions imposed in that mayor's municipality pursuant to the authority granted
in N.C.G.S. § 166A-19.31 and need not be with respect to all prohibitions and restrictions authorized by that section. Extension of the emergency area pursuant to this subdivision shall be subject to the following additional limitations:

(1) The extension of the emergency area shall not include any area within the corporate limits of a different municipality, or within any area of the County over which a municipality has jurisdiction to enact general police-power ordinances, unless the mayor or governing body of that other municipality consents to its application.

(2) The Chair of the Board of County Commissioners extending the emergency area under the authority of this subdivision shall take reasonable steps to give notice of its terms to those likely to be affected.

(3) The Chair of the Board of Commissioners shall declare the termination of any prohibitions and restrictions extended pursuant to this subdivision upon the earlier of the following:

   (i) The Chair's determination that they are no longer necessary.

   (ii) The determination of the Board of County Commissioners that they are no longer necessary.

   (iii) The termination of the prohibitions and restrictions within the requesting municipality.

§ 32.67. Prohibitions and restrictions authorized.

(a) The proclamation declaring a state of emergency may or may not include any or all of the following prohibitions and restrictions:

(1) Movement of people in public places, including

   (i) imposing a curfew;

   (ii) directing and compelling the voluntary or mandatory evacuation of all or part of the population from any stricken or threatened area within the jurisdiction of the Lincoln County Board of Commissioners;

   (iii) prescribing routes, modes of transportation, and destinations in connection with evacuation; and

   (iv) controlling ingress and egress of an emergency area, and the movement of persons within the area.

(2) Closure within the emergency area of streets, roads, highways, bridges, public vehicular areas, or other areas ordinarily used for vehicular travel.

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

(4) The possession, transportation, sale, purchase, and consumption of alcoholic beverages.

(5) The possession, transportation, sale, purchase, storage, and use of gasoline, and dangerous weapons and substances, except that this subdivision does not authorize
prohibitions or restrictions on lawfully possessed firearms or ammunition. As used in this subdivision, the term "dangerous weapons and substances" has the same meaning as it does under G.S. 14-288.1. As used in this subdivision, the term "firearm" has the same meaning as it does under G.S. 14-409.39(2).

(6) 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.

(b) The proclamation declaring state of emergency may or may not exempt from all or any part of prohibitions and restrictions the following persons or groups of persons while acting in the line of and within the scope of their respective duties:

(1) Law enforcement officers, firefighters and other public employees, rescue squad members, doctors, nurses, employees of hospitals and other medical facilities;

(2) On-duty military personnel, whether state or federal;

(3) On-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit; and

(4) 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 people within the county.

(c) Prohibitions and restrictions imposed pursuant to this section shall expire upon the earliest occurrence of any of the following:

(1) The prohibition or restriction is terminated by the Chair of the Board of Commissioners that imposed the prohibition or restriction.

(2) The state of emergency is terminated.

(d) This section is intended to supplement and confirm the powers conferred by N.C.G.S. § 153A-121(a), N.C.G.S. § 160A-174(a), and all other general and local laws authorizing counties to enact ordinances for the protection of the public health and safety in times of riot or other grave civil disturbance or emergency.

(e) Any person who violates any provision of this ordinance or a declaration enacted or declared pursuant to this section shall be guilty of a Class 2 Misdemeanor in accordance with N.C.G.S. § 14-288.20A.

§ 32.68. Superseding and amendatory proclamations.

The Chairperson of the Board of Commissioners may invoke the restrictions authorized by this article in separate proclamations and may amend any proclamation by means of a superseding proclamation in accordance with the procedures set forth in §32-66 and §32-67 pertaining to the prohibitions and restrictions authorized.

§ 32.69. Termination of proclamation.

A state of emergency declared under this article shall expire when terminated by the Chairperson of the Board of Commissioners who issued it following the same procedures set forth in § 32-66.
§ 32.70. Absence or disability of chairperson.

In the absence or disability of the Chairperson, the Vice-Chairperson of the Board of Commissioners or such other Commissioner as may be designated by the Board of Commissioners shall have and exercise all of the powers given the chairperson in this article.

§§ 32.71 thru 32.105. Reserved for future codification.

ARTICLE IV. HAZARDOUS MATERIALS

§ 32-106. Authority.

The Lincoln County Director of Emergency Services may designate a Hazardous Materials Coordinator(s) to coordinate operations of the Lincoln County hazardous materials team.

§ 32.107. Intent and purpose.

The intent and purpose of this article is to establish the duties of the Lincoln County Department of Emergency Management as it relates to hazardous materials emergencies. Such incidents include, but are not limited to, spills, accidents, illegal dumping and other releases or threatened releases of hazardous materials requiring control. The Lincoln County Department of Emergency Management shall have the authority to summarily remove, abate, or remedy hazardous material emergencies within the jurisdiction of Lincoln County that are, or potentially are, a threat to public safety.

§ 32-108. Right of entry.

When responding to a release or threatened release of hazardous materials the Lincoln County Department of Emergency Management, along with any agencies it calls in to provide assistance, may enter onto any private or public property, or any adjacent or surrounding property where the release or threatened release occurred.

§ 32-109. Liability and fees.

Liability for an emergency involving a hazardous material incident shall be the sole responsibility of the responsible party, as defined herein, and said person or entity shall be responsible for all reasonable costs and fees incurred in responding to and mitigating the incident, which may be found in the Lincoln County Fee Schedule, as amended.

Section 2. This ordinance shall become effective the 1st day of July, 2022.

Adopted this the ___ day of _____________, 20__.

Carrol D. Mitchem, Chairman
Lincoln County Board of Commissioners

(SEAL)

ATTEST:

_________________________________
Sole Source Approval for the Purchase of one Charlie Cart Project Mobile Kitchen Including tools and curriculum in the amount of $12,000.00: Jennifer Sackett requested the Board’s approval of a Sole Source Purchase of one Charlie Cart Project Mobile Kitchen including tools and curriculum in the amount of $12,000.00 as presented.

UPON MOTION by Commissioner McCall, the Board voted unanimously to approve a Sole Source Purchase of one Charlie Cart Project Mobile Kitchen including tools and curriculum in the amount of $12,000.00 as presented.

Public Comments: Chairman Mitchem opened Public Comments.

Patty Korn asked for the Board’s help in removing the obsolete Westport Family Medical sign on Business Highway 16.

Robert Avery asked for the Board to look at districting the County Commissioners race.

Greg Smith expressed his appreciation on behalf of the HOAs of Webbs Road for the UDO Amendment approved tonight. He said their plans are to expand the group with additional HOAs to continue to provide feedback.

Being no additional speakers, Chairman Mitchem closed Public Comments

County Manager’s Report: Kelly Atkins said the Commissioners will meet on Friday, March 25 at 10 AM for a budget work session. He said the courts will move into the new Courthouse May 6 – 8 and it will be open to the public May 9. May 13 will be the Grand Opening Celebration.

County Attorney’s Report: Megan Gilbert, County Attorney, said starting in April, Historic Properties that have previously been declare, but not properly secured by recording at the Register of Deeds, will be coming back before the Board for basic recertification and re-acknowledgement of their landmark status. Letters were sent out to all property owners letting them know.

Vacancies/Appointments: UPON MOTION by Commissioner Cesena, the Board voted unanimously to make the following appointments:
• Opioid Steering Committee
  • Lena Jones, Chair
  • Amanda McCrickard,
  • Anita McCall
  • Cathy Davis
  • Vanessa Palmer
  • Kim Campbell
  • Michelle Mathis
  • Buddy Harris
  • Carolyn Riggs
  • Davin Madden
  • Kelly Atkins
  • Deanna Rios
  • Megan Gilbert
  • VACANT, Hesed House Director
  • Richie Haynes
  • Alisha Friday

• Board of Equalization and Review
  REGULAR MEMBERS
  • W. Steven Banner, Chairman
  • Neil C. Mullen, Vice Chairman
  • Martin Oakes
  • Richard Permenter
  • Perry Cashion

  ALTERNATES:
  • John Black, Jr.
  • Gail H. Carpenter
  • Donald Crump
  • Robert Avery
  • Beth H. Saine

• Region F Aging Advisory Board
  • Cheryl Ann Gantt

• DSS Board
Commissioner McCall said the Lincoln County Opioid Committee will meet for the first time tomorrow at 11:00 AM.

**Adjourn:** UPON MOTION by Commissioner Sigmon, the Board voted unanimously to adjourn.

Amy S. Atkins, Clerk
Board of Commissioners

Carrol Mitchem, Chairman
Board of Commissioners