

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
January 19, 2017**

CALL TO ORDER

A regular meeting of the Boone Town Council was called to order at 5:30 p.m. Thursday, Jan. 19, 2017, in the Council Chambers located at 1500 Blowing Rock Road. Mayor Rennie Brantz presided. Council members present were Mayor Pro Tem Lynne Mason, Charlotte Mizelle, Jennifer Teague and Jeannine Underdown Collins. Town Attorney Allison Meade was in attendance. Staff present were Town Manager John Ward, Assistant Town Manager Jim Byrne, Town Clerk Christine Pope, Public Works Director Rick Miller, Deputy Public Works Director Josh Eller, Finance Director Amy Davis, Planning Director Jane Shook, Police Captain Andy LeBeau, Fire Chief Jimmy Isaacs and Human Resources Director Peri Moretz.

ANNOUNCEMENTS

Town Manager John Ward announced that Jane Shook is to be promoted from interim to permanent planning director for the Town. Mayor Brantz presented Susan McCracken with a resolution of volunteer appreciation and recognition for her time serving on the Planning Commission. Brad Harmon presented two Town of Boone Bicentennial Coins to be on loan to the Town.

TENTATIVE AGENDA ADOPTION

MOTION TO ADOPT TENTATIVE AGENDA

Upon a motion by Council Member Mizelle, seconded by Council Member Underdown Collins, Council moved to adopt the tentative agenda.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Charlotte Mizelle, Council Member
SECONDER:	Jeannine Underdown Collins, Council Member
AYES:	Mason, Mizelle, Teague, Collins
ABSENT:	Clawson

PUBLIC HEARING

BROWN OF BOONE III, LLC VOLUNTARY NON-CONTIGUOUS ANNEXATION

Mayor Brantz opened a public hearing at 5:38 p.m. on the voluntary, non-contiguous annexation petition submitted by Brown of Boone III, LLC. With no one signed up to speak, the mayor closed the hearing at 5:39 p.m.

PUBLIC COMMENT

Jim Deal of 870 West King Street spoke on behalf of his client, Glenn Weaver, with regard to the Rivers Walk development to request that Council amend their agenda to consider granting an extension of the vesting period for the project's building permit. Council Member Mizelle noted that other people had been turned down to add agenda items after the submission deadline, and she was hesitant to do so for one and not the others.

REQUESTED APPEARANCES

PRESENTATION OF FY 2015/2016 ANNUAL AUDIT

Representatives of Combs, Tennant & Carpenter, PC presented the Town of Boone FY 15/16 annual audit.

CONSENT AGENDA ADOPTION

Upon a motion by Council Member Underdown Collins, seconded by Council Member Mason, Council moved to adopt the consent agenda.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jeannine Underdown Collins, Council Member
SECONDER:	Lynne Mason, Mayor Pro Tem
AYES:	Mason, Mizelle, Teague, Collins
ABSENT:	Clawson

TOWN COUNCIL - SPECIAL MEETING - DEC 12, 2016 5:30 PM

TOWN COUNCIL - REGULAR MEETING - DEC 15, 2016 5:30 PM

TOWN COUNCIL - SPECIAL MEETING - DEC 28, 2016 6:30 PM

TOWN COUNCIL - SPECIAL MEETING - JAN 9, 2017 9:00 AM

APPROVAL OF RESOLUTION OF VOLUNTEER APPRECIATION AND RECOGNITION - SUSAN MCCRACKEN

RESOLUTION OF VOLUNTEER APPRECIATION AND RECOGNITION

WHEREAS, Susan McCracken has served this community well in numerous capacities during her time volunteering on the Town of Boone's Planning Commission; and,

WHEREAS, Susan's service to the Town of Boone shows exemplary dedication to the best interest and betterment of the community; and,

WHEREAS, through the performance of her duties and responsibilities as a member of the Planning Commission, she has made excellent and constructive contributions to our Town; and,

WHEREAS, she has earned the admiration and high regard of those with whom she has come into contact and the affection of her fellow public servants.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Boone, North Carolina does hereby express our sincere appreciation and thanks, as well as that of our citizens, to Susan McCracken with sincere best wishes for continued success and many happy years ahead.

Adopted by unanimous vote of the Town Council on the 19th day of January, 2017.

Mayor Rennie Brantz

ATTEST:

Town Clerk Christine Pope

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 313)

**ADOPTION OF ANNEXATION ORDINANCE FOR BROWN OF BOONE III, LLC
VOLUNTARY NON-CONTIGUOUS ANNEXATION**

**Ordinance #17-01
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
TOWN OF BOONE, NORTH CAROLINA
(Brown of Boone III, LLC)**

WHEREAS, the Town Council has been petitioned under G.S. 160A-58.1 to annex the area described below; and

WHEREAS, the Town Council has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, the Town Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at Council Chambers at 1500 Blowing Rock Road at 5:30 p.m. on January 19, 2017 after due notice by Watauga Democrat on January 4, 2017; and

WHEREAS, the Town Council finds that the area described therein meets the standards of G.S. 160A-58.1(b), to wit:

- a. The nearest point on the proposed satellite corporate limits is not more than three (3) miles from the corporate limits of the Town;
- b. No point on the proposed satellite corporate limits is closer to another municipality than to the Town;
- c. The area described is so situated that the Town will be able to provide the same services within the proposed satellite corporate limits that it provides within the primary corporate limits;
- d. No subdivision, as defined in G.S. 160A-376, will be fragmented by this proposed annexation;
- e. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, does not exceed ten percent (10%) of the area within the primary corporate limits of the Town, and

WHEREAS, the Town Council further finds that the petition has been signed by all owners of real property in the area who are required by law to sign; and

WHEREAS, the Town Council further finds that the petition is otherwise valid, and that the public health, safety and welfare of the Town and of the area proposed for annexation will be best served by annexing the area described;

NOW, THEREFORE BE IT ORDAINED by the Town Council of the Town of Boone, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-58.2, the following described non-contiguous territory is hereby annexed and made part of the Town of Boone, as of February 16, 2017:

A 4.600 acre tract being that portion of Book of Records 1489, Page 412 lying on the south side of New Highway US 421 (project 6.759003T) being surveyed by me, Frank Lee Hayes PLS L -1488, on August 10, 2015 as: BEGINNING on an existing half inch rebar, a corner to a Watauga County tract (BoR 40, Page 755) in the northern line of a second Watauga County tract (DB 252, Page 739), and having NCGS NAD '83 coordinates of N = 910,179.13 and E=1,224,176.92; THENCE from the beginning and with the Watauga County property line North 71 degrees 29 minutes 30 seconds West 645.31 feet to an existing 5/8 inch rebar, a Markovich properties corner; THENCE with the Markovich line North 71 degrees 29 minutes 30 seconds West 234.11 feet to a 5/8 inch rebar set in the DOT line; THENCE with said line North 83 degrees 46 minutes 15 seconds East 73.15 feet to a 5/8 rebar set; THENCE with the same North 71 degrees 46 minutes 15 seconds East 136.16 feet to a concrete DOT monument; THENCE with the same NORTH 83 degrees 46 minutes 15 seconds East 446.72 feet to a concrete monument; THENCE with the same South 77 degrees 22 minutes 05 seconds East 392.91 feet to an existing half inch rebar at a fence corner, a Watauga County property corner; THENCE with the Watauga County property line South 33 degrees 35 minutes 30 seconds West 350.08 feet to the BEGINNING; being described with bearings and distances relative to the North Carolina Grid System (combined grid factor is 0.99986915).

Section 2. Upon and after February 16, 2017 the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Boone and shall be entitled to the same privileges and benefits as other parts of the Town of Boone. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the Town of Boone shall cause to be recorded in the office of the Register of Deeds of Watauga County and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described herein in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the County Board of Elections as required by G.S. 163-288.1.

Attest:

Rennie Brantz, Mayor

Christine Pope, Town Clerk

(ORDINANCE TO BE TYPED IN BOOK 4, PAGES 96-97)

APPROVAL/RATIFICATION OF FINAL REVISIONS TO CHAPTER 73: TOWING AND BOOTING

CHAPTER 73: TOWING & BOOTING

Section

- 73.01 Definitions
- 73.02 Authority for and scope of chapter
- 73.03 Advance notice of trespass towing or booting required
- 73.04 Trespass towing practices
- 73.05 Booting practices
- 73.06 Notice of fees
- 73.07 Receipts
- 73.08 Complaint information
- 73.09 Compliance dates
- 73.10 Restrictions related to certain criminal convictions
- 73.99 Penalty

§ 73.01 DEFINITIONS.

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

BOOT means a wheel lock or any other instrument that is attached to a motor vehicle in order to immobilize it. As context requires, *BOOTING* can include any or all of the activities involved in controlling unauthorized parking by means of immobilization of a vehicle, including but not limited to applying a boot, monitoring parking lots for unauthorized vehicles, and/or demanding or accepting payment to remove a boot. *IMMOBILIZATION* may be used interchangeably with *BOOTING* herein.

BOOTING SERVICE means and includes any person or entity that engages in, or that owns or operates a business that engages in, the booting of motor vehicles for compensation.

ESTABLISHMENT means the use of a structure for a commercial purpose.

MOTOR VEHICLE means a Class A, B, or C motor vehicle as defined in G.S. 20-4.01(23).

PRIVATE PARKING LOT. Any privately-owned area created, designated or used for the parking of two or more vehicles. As used herein, private parking lot does not include driveways, garages or other parking areas or yards of single-family or duplex residences.

TOWING COMPANY means and includes any person or entity that engages in, or that owns or operates a business that engages in, the towing of motor vehicles for compensation.

TRESSPASS TOW means to tow a motor vehicle that is parked on a private parking lot without the property owner's or agent's consent without the consent of the motor vehicle's owner or operator, i.e., a non-consensual tow.

§ 73.02 AUTHORITY FOR AND SCOPE OF CHAPTER.

(A) This Chapter is enacted in furtherance of the Town's authority to define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the town, as granted per G.S. §160A-174, and its authority to regulate and license occupations, businesses and trades, and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience, as granted per G.S. §160A-194(a).

(B) This Chapter is applicable to any trespass tow or booting that takes place for compensation in a private parking lot in the town limits, except as provided at subsection (D) of this section.

(C) No towing company may engage in any trespass tow from a private parking lot in the town limits or charge any fee in connection therewith, and no booting service may immobilize a vehicle in a private parking lot in the town limits or charge any fee in connection therewith, unless the trespass tow or booting complies with all requirements of this Chapter.

(D) This chapter is not intended to limit, modify or abrogate (i) the authority of police, fire department or other public officers to direct the towing or immobilization of a motor vehicle as authorized by other provisions of the Town Code or state law; (ii) the towing of vehicles encroaching into areas clearly designated as fire lanes; or (iii) a property owner's right to tow vehicles blocking clearly designated areas of ingress and/or egress or right to tow vehicles blocking access to a dumpster so long as signage conspicuously warns that a vehicle blocking access to the dumpster is subject to towing.

(E) This chapter does not limit other legal remedies that a property owner may have against a person trespassing on private property, but only applies to and limits the use of trespass towing and booting as specified herein.

§ 73.03 ADVANCE NOTICE OF TRESPASS TOWING OR BOOTING REQUIRED.

It shall be unlawful for any person or entity to authorize, direct, engage in, or contract for trespass towing or booting in a private parking lot unless advance notice is given as follows:

(A) The parking lot has one or more warning signs posted ~~in at such~~ locations and ~~at~~-heights so ~~that at least one sign is as to provide a~~ conspicuous ~~to and easily read by the driver~~ warning to drivers of a vehicle both (i) when the driver is entering the vehicles who are not familiar with that parking lot, and (ii) when the driver exits the vehicle that the lot is private and that unauthorized vehicles will be towed or exits the parking lot as a pedestrian booted.

(1) Each sign shall be no smaller than four square feet and no larger than six square feet, with a white background and red letters, printed in fonts that can easily be read by a person of ordinary vision, and shall contain the following information, as applicable:

a. That the parking lot is a private parking lot and that unauthorized vehicles will be towed or immobilized and subject to a fine/fee for removal of the boot, e.g., "Private Parking Lot - Towing Enforced" or "Private Parking Lot – Unauthorized Vehicles Will Be Immobilized and Fined"; or "Parking for Customers Only – Towing Enforced," or "Parking for Residents Only – Unauthorized Vehicles Will Be Immobilized and Fined," or similar phrasing.

b. The name and telephone number of the towing company and/or booting service that enforces parking in that lot.

(2) If applicable, the following information must be contained either on the warning sign(s) required per the preceding subsection (A)(1) or on separate sign(s) attached immediately adjacent on the same post or structure:

a. If the parking lot serves a shopping center, mall, or office building, then at the option of the property owner or lessor either (i) the name of the shopping center or mall or office building or (ii) the names of all businesses within that shopping center or mall or office building, and a warning that parking is authorized only for persons patronizing that shopping center or mall or office building.

b. If the parking lot serves multiple locations (other than a shopping center or mall or office building), the name of every establishment served by the parking lot and a warning that parking is authorized only for persons patronizing one of those establishments.

-(3) There shall be a minimum of one warning sign for each vehicular entrance to the parking lot ~~placed so as to be conspicuous to and easily read by the driver of a vehicle when the driver is entering the parking lot, and there shall be~~ and such other signs as are required so that an ordinary driver who is not familiar with that parking lot is warned by the signage upon entering the parking lot, exiting his or her vehicle-, and/or

upon exiting the parking lot as a pedestrian that the lot is private and that unauthorized vehicles are subject to towing or booting.

(4) One or more police officers designated by the Chief of Police (the “liaison officer”) shall direct and approve the number and placement of warning signs in his or her reasonable discretion to ensure that signs are conspicuous to ~~and easily read by~~ warn vehicle drivers as specified per ~~(A) above~~ the foregoing provisions of this subsection (A). If the property owner or lessee disagrees with the direction provided by the liaison officer, the owner or lessee may appeal to the Chief of Police. The determination of the Chief of Police shall be final and non-appealable.

(5) If one or more credible complaints are received by the Police Department from any person to the effect that the warning signs posted on a parking lot are not sufficiently conspicuous as required per this subsection (A), the liaison officer shall re-consider the sign layout and may require the re-location of signs or the installation of new signs.

(B) As an alternative to the signage required per (A) above, the parking lot may have a sign at every parking space within the lot as to which parking is to be enforced, each such sign being posted in a conspicuous location facing the parking space, no smaller than 120 square inches, with a white background and red letters, identifying the space as private property, and warning that unauthorized vehicles will be towed or booted (for example, “Private Parking - Towing Enforced”). In addition, the name and telephone number of the towing company or booting service must be posted either (i) on each sign facing the individual parking spaces, or (ii) on at least one other sign, no smaller than four square feet and no larger than six square feet, placed in a conspicuous location in the parking lot.

(C) As an alternative to the signage required per (A) or (B) above, a trespass tow is authorized where a weather-proof (e.g., laminated) written notice, not less than 8.5” x 11”, is placed on the front driver’s side windshield and/or the driver’s window of the car, affixed in manner that will not mar the vehicle but will insure that the notice will not blow away, at least eight (8) hours prior to the trespass towing of the vehicle, which notice contains all of the following information on both sides of the notice in large, easily readable type: (i) that the parking lot is a private parking lot and unauthorized vehicles will be towed; (ii) the name and telephone number of the towing company and location where any towed vehicle is taken; (iii) the towing charges imposed by the towing company; (iv) the amount of any storage charges related to the storage by the towing company of the vehicle, and the terms and conditions for the imposition of storage charges; and (v) the time and date that the notice has been placed on the vehicle and the time and date as of which the vehicle will become subject to towing.

(D) Once an owner or operator of a vehicle has been notified of unauthorized use pursuant to the immediately preceding subsection (C), it shall be unnecessary for the person authorizing, directing, engaging in, or contracting for the trespass tow to give any further notification should there be any future unauthorized parking of the same vehicle at the same parking lot, and upon its discovery, the vehicle may be immediately towed.

§ 73.04 TRESPASS TOWING PRACTICES.

(A) An occupied vehicle may not be towed or attached to a towing vehicle.

(B) A towing company may not attempt to impede or block an occupied vehicle from being removed from a parking lot by its owner or operator.

(C) A towing company must accept at least two nationally- recognized credit cards (such as MasterCard or Visa) and any debit card in payment for any fees charged in connection with a trespass tow.

(D) Whenever a towing company is attempting a trespass tow but the vehicle has not yet been removed from the parking lot, and the owner or operator of the vehicle appears and states a desire that the vehicle not be towed, the towing company shall release the vehicle to the owner or operator upon the payment of its noticed fees and charges.

(E) A towing service engaged in a trespass tow shall, upon request of the owner or operator of the motor vehicle, permit the owner or operator access to the trespass vehicle for the purpose of retrieving personal property from the vehicle. If personal items are removed from the motor vehicle by the towing service, then upon request those items will be returned to the owner or operator.

(F) A *towing company* that engages in a trespass tow shall, prior to or immediately upon removing the vehicle from the private parking lot, report to the Boone Police Department by telephone to its non-emergency number the fact that a vehicle is to be *towed* and shall provide a description of the vehicle

including make, color, and license tag number, the parking lot from which it is to be towed, and the place it is to be stored.

(G) For six hours immediately following a trespass tow and during the next business day, the towing company must respond within one-half hour to a telephone call from the vehicle's owner or operator to the contact number provided by the towing company. During its response call, upon the request of the operator or owner of the towed vehicle, the towing company must make arrangements for the release of the vehicle upon the full payment of fees.

(1) The towing company must arrange for and allow the full payment of fees within one-half hour of responding to a call from the owner or operator of the vehicle. If the towing company is located more than ten miles from the location from which the vehicle was towed, and the owner or operator has requested the opportunity and indicated a willingness to pay the fees, but states an inability to obtain transportation to the location of the vehicle, the company must travel to the location of the operator or owner of the towed vehicle to allow the full payment of fees to be made. The towing company may charge an additional fee for this service.

(2) The towing company must arrange for the release of the towed vehicle within one hour of payment. If the vehicle is more than ten miles from the location from which it was towed, the company must return the vehicle to the public street nearest the location from which the vehicle was towed within one hour of payment. The towing company may charge an additional fee for this service.

(H) No storage fee may be charged for days when the towing company is not open during the full normal business hours of at least 9:00 a.m. to 4:00 p.m. for the recovery of a trespass towed vehicle. A towing company that is not open for the recovery of a towed vehicle 24 hours a day shall not charge a storage fee for the storage of the towed vehicle until at least one full business day (no less than 24 hours) has elapsed from the time the towing company is next open for the recovery of a towed vehicle after the towing.

§ 73.05 BOOTING PRACTICES

(A) An occupied vehicle may not be booted.

(B) A booting service may not attempt to impede or block an occupied vehicle that has not yet been booted from being removed from a parking lot by its owner or operator.

(C) A booting service must accept at least two nationally-recognized credit cards (such as MasterCard or Visa) and any debit card in payment for any and all fees charged in connection with booting.

(D) No person may engage in booting until he or she has obtained an identification badge from the town. Identification badges shall be issued for a single calendar year and must be renewed annually. In order to obtain an identification badge from the town, the applicant must: (i) provide a certified copy of the applicant's criminal record in North Carolina from the Watauga County Clerk of Superior Court; (ii) fully complete an application, on a form provided by the town, disclosing his or her name, address, telephone number, date of birth, gender, company affiliation, if any, physical location of affiliated company, and status as an employee or independent contractor of the company, by stating whether and by whom income taxes and FICA taxes are withheld from his or her pay; and (iii) disclose and certify, under oath, any and all criminal convictions described at §73.10 below. An identification badge may not be issued to a person who has been convicted as described at §73.10.

A person engaged in booting must display on his or her person at all times the picture identification badge issued by the town. The identification must be plainly visible, either attached to the exterior clothing or on a lanyard hanging around the neck. Upon request, the person engaged in booting must allow the operator or owner of the vehicle which has been immobilized to examine and copy any information from the identification badge. In addition, a person engaged in booting must wear clothing that identifies in a manner that is conspicuous and easily readable to other persons with whom that persons engages the name of the business for whom that person works and includes in either the name of the business or otherwise a description of the parking control device or method used, e.g., "ABC Wheel-lock Company." The letters on such insignia shall be no less than 3/4 inches in height. ~~Notwithstanding any other provision of this chapter, booting service personnel must comply with the foregoing mandate that they wear clothing identifying themselves by January 1, 2017.~~

(E) Any vehicle used in connection with booting must have insignia on both the operator's door and the front passenger door or a vehicle-top-mounted sign that identifies the company with which the attendant is employed or associated by name, ~~address~~ and telephone number and includes either in the name of the company or otherwise a description of the parking control device or method utilized, e.g., "ABC Wheel-

lock Company.” All letters on such insignia shall be no less than three (3) inches in height; *provided*, that notwithstanding any other provision of this chapter, vehicle insignia must comply with this 3” minimum requirement when new insignia is purchased, when insignia is replaced, or by June 30, 2017, whichever occurs earlier.

(F) After immobilizing a vehicle, the booting service must place a weather-proof (e.g., laminated) notice on the driver’s side windshield and/or the driver’s side window of the car, affixed in manner that will not mar the vehicle but will insure that the notice will not blow away. This notice must be brightly colored (e.g., yellow or orange), a minimum of 8.5” x 11”, and contain the following information, all of which shall be in a large, plainly readable type: (i) in capital letters: “YOUR VEHICLE HAS BEEN WHEEL-LOCKED BECAUSE IT WAS PARKED IN A PRIVATE LOT WITHOUT AUTHORIZATION. DO NOT DRIVE THIS VEHICLE OR YOU MAY DAMAGE YOUR CAR AND THE WHEEL LOCK”; (ii) all fees that may be charged prior to release of the vehicle; (iii) that all fees may be paid by cash, credit card or debit card; and (iv) a telephone number to call to have the wheel lock removed. The fees that may be charged must be specifically and precisely disclosed; that is, the notice may not refer to minimum or maximum fees or a range of fees.

(G) A booting service must arrange to respond to a telephone call from the owner or operator of an immobilized vehicle within no more than 15 minutes.

(H) A booting service must make a reasonable effort to release the immobilized vehicle within 30 minutes of responding to the telephone call from the owner or operator of an immobilized vehicle.

(I) After a vehicle is booted, it shall be unlawful for any person to authorize, direct or contract for the trespass towing of that vehicle for a period of at least eight hours following such booting. Once a boot has been applied, the vehicle subsequently may be trespassed towed after the vehicle has been booted for at least eight (8) hours, so long as the requirements of either §73.03(A) or § 73.03(C) are met as to that trespass tow.

(J) A booting company may not charge more than one boot removal fee for the booting of a particular vehicle in a particular instance, and may not charge a higher removal fee based solely on the length of time that a boot has been attached to a vehicle; *provided, however*, that this provision is not intended to prevent a booting service from charging additional fees for separate and additional services, such as a service call to meet an owner or operator of a vehicle to remove a boot where the owner or operator does not appear and has to be rescheduled.

(K) Should the Town receive and verify three or more unrelated and credible complaints within any three-month period asserting the failure of a booting service to respond within 15 minutes to telephone contact by the owners or operators of immobilized vehicles and to arrange the vehicles’ release within 30 minutes thereafter, it shall be presumptively concluded that the booting service does not have the capacity to respond within the required times. Thereafter for the following 12 month period, a duly authorized person must be on duty and present in the parking lot at all times when any vehicle is booted, and the person must remain on the property until the owner or operator of the vehicle returns, with the ability to remove the boot upon payment of fees. After the 12 month period, the booting service shall not be required to maintain a duly authorized person at all times in parking lots where vehicles are booted, unless and until such time as the Town again receives and verifies three or more complaints as set forth in the first sentence of this paragraph.

§73.06 NOTICE OF FEES AND PAYMENT OPTIONS; FEES TO BE REASONABLE

(A) With respect to every trespass tow or booting subject to this Chapter, plain and conspicuous notice must be given to the owner or operator of the vehicle (i) as to any fee that may be charged in connection with the trespass tow or booting, including storage and any other fee or charge of any nature; and (ii) that credit and debit cards may be used for payment of any and all such fees. Fees must be specifically and precisely disclosed; the notice may not refer to minimum or maximum fees or a range of fees. Notice may be given:

- (1) On the parking lot warning sign(s) to be posted as provided at section §73.03(A) or §73.03(B)(ii) above, or on separate sign(s) attached to the same sign post or immediately adjacent on the same structure; or
- (2) On the weather-resistant notices to be attached to the vehicle’s windshield as provided at sections §73.03(C) or §73.05(F) above, in the same or a larger type size than that used for the other information provided in the notice; or
- (3) On the vehicle insignia on the towing vehicle or booting service vehicle, provided that such

vehicle is easily viewable by the owner or operator of the vehicle when arrangements are being made for payment of the towing or booting fees; or

- (4) In large, easily-readable type on a pre-printed schedule of fees, not less than 8.5" x 11", provided to the owner or operator of the vehicle prior to the payment of fees.

(B) Any towing company engaged in trespass towing shall post in a conspicuous location at its place(s) of business and in size sufficient to be easily read a schedule of fees that states, at a minimum, its consensual towing fee(s), its trespass towing fee, its daily storage fee and its hours of operation. The schedule of fees shall be posted in a location(s) so that a person may obtain the information at times when the towing company is not open for business.

(C) Any towing company or booting service engaged in activities subject to this Chapter must provide a schedule of all its fees and charges to the Police Department, and such schedule of fees must be kept current at all times. Fees must be specifically and precisely disclosed; the required schedule of fees may not refer to minimum or maximum fees or to a range of fees.

(D) A towing company or booting service may not assess any fee or other charge in connection with a trespass tow or booting that is not both (i) publicly noticed as required per (A) and (B) above and (ii) set forth in a schedule of fees and charges that has been on file with the Police Department for at least 24 hours prior to the assessment of the fee. In the case of any discrepancy in the amount of a fee or other charge noticed by posting in any manner provided at (A) above or provided to the Police Department on a schedule of fees, only the lowest fee or other charge so noticed may be charged.

(E) Any fee charged in connection with a trespass tow or booting regulated under this Chapter must be reasonable in relation to the cost of providing the service or item, inclusive of reasonable overhead and profit.

§73.07 RECEIPTS

Upon receiving payment for a trespass tow or release of a boot, and whether requested or not, the towing company or booting service shall prepare a receipt and offer a copy of the receipt to the person providing payment. The receipt shall provide in legible print (i) a breakdown of individual fees charged; (ii) the total amount paid and method of payment; (iii) the name of the person accepting the payment; (iv) a clear and accurate reason for the towing or booting and the date, place and time of the towing or booting; and (v) the appeals process, if any, provided to contest the tow or booting. The towing company or booting service shall maintain copies of these receipts on file for at least 12 months and shall provide copies to the Police Department upon request.

§73.08 COMPLAINT INFORMATION

Any person who pays for a trespass tow or booting subject to this Chapter must be provided, in an easily readable and conspicuous format, the name and telephone number of the property owner, lessor, or property manager to whom complaints about the trespass tow or booting may be directed. The person or company to whom complaints are to be directed may not be a towing company, booting service, or any employee, representative, officer, agent or affiliate thereof. The aforesaid information may be provided by any of the following methods:

- (1) On the parking lot warning sign(s) to be posted as provided at section §73.03(A) or §73.03(B)(ii) above, or on a separate sign attached to the same sign post or immediately adjacent on the same structure; or
- (2) On separate sign(s) posted on the property, so long as said sign(s) are conspicuous to a person who has parked in the parking lot at issue.
- (2) On a weather-resistant notice attached to the vehicle's windshield as provided at sections §73.03(C) or §73.05(F) above, in the same or a larger type size than that used for the other information provided in the notice; or
- (3) In large, easily-readable type on a pre-printed notice, not less than 8.5" x 11", provided to the owner or operator of the vehicle prior to the payment of fees.

§ 73.09 COMPLIANCE DATES.

— This Chapter, as amended, shall be effective as of February 1, 2017. All parts of this Chapter, as amended, are mandatory as of the effective date ~~of amendment~~ except as follows:

- (A) The mandate that signs contain red lettering against a white background is required when any required sign is replaced, or December 31, 2016, whichever is earlier.

(B) The mandate per section §73.03(A) that warning sign number and locations be reviewed and approved by the liaison officer shall be effective immediately for any private parking lot that was not in compliance with the requirements of this Chapter (as then effective) as of October 1, 2016. As to any private parking lot that was in compliance as of October 1, 2016, the property owner or his agent shall consult with, obtain the review and approval of liaison officer for a sign layout plan, and come into compliance with the approved sign plan no later than June 30, 2017.

§ 73.10 RESTRICTIONS RELATED TO CERTAIN CRIMINAL CONVICTIONS

(A) A person may not engage in trespass towing or booting activities in the town limits involving direct interaction with the public:

(1) for a period of two years following conviction within any five-year period of any two criminal infractions (felony and/or misdemeanor) arising from a violation of, or related to activities governed by, this Chapter, or

(2) for a period of two years following conviction of any manner of assault related to a trespass tow or booting within the town.

(B) A person may not engage in trespass towing or booting activities in the town limits involving direct interaction with the public if, within the prior ten years, that person has been convicted in any jurisdiction for any one or more of the following crimes: assaults or threats; homicide; sexual assault; crimes against nature, incest, indecent exposure and related offenses; kidnaping, larceny, possession of stolen goods, embezzlement and related offenses; robbery, extortion and related offenses; burglary and breaking and entering; felony fraud, false pretenses and related offenses involving financial transactions; and weapons offenses.

§ 73.99 PENALTY.

The provisions of §10.99 apply to violations of this chapter except as specifically provided otherwise in this section.

(A) Per G.S. § 14-4(a), any person who violates this chapter shall be guilty of a Class 3 misdemeanor and subject to a fine of up to \$500 for each violation.

(B) Any person who violates this chapter shall be subject to a civil penalty in the amount of \$100. In the event there is more than one violation within any one-year period, then the civil penalty shall be increased for each additional violation over one during such period, as follows.

Second offense within one year: \$250.00

Third offense within one year: \$500.00

Fourth offense within one year: \$750.00

Fifth and any subsequent offense within one year: \$1,000.00

Once the one year period has run from the first violation, the next violation shall be considered to be a first violation for the purposes of establishing a new one year period.

(C) This chapter may also be enforced by an appropriate equitable action.

(D) Per G.S. § 160A-175(f), any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this chapter.

APPROVAL OF AUDIT CONTRACT FOR FY 2016/17

Following official minutes as Exhibit A.

APPROVAL OF CHANGE ORDER - WHITENER DRIVE SEWER IMPROVEMENT PROJECT

Permanently on file in Town Hall.

CONSIDERATION OF APPROVAL OF 2017 BOONE GRAN FONDO SPECIAL EVENT PERMIT AND ACCOMPANYING BUDGET AMENDMENT

Description:	Account	To:	From:
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	Number:		
Overtime – Police Department	010-500-300-501201	\$750	
Overtime – Street Department	010-600-401-501201	\$750	
Appropriated Fund Balance – General Fund	010-000-000-499900		(\$1,500)

TRANSPORTATION COMMITTEE REQUEST TO APPLY FOR "WALK FRIENDLY COMMUNITY" DESIGNATION

REQUEST FOR NOMINEE TO WATAUGA COUNTY RECREATION COMMISSION

APPROVAL OF BUDGET AMENDMENT - POLICE DEPARTMENT

Description:	Account Number:	To:	From:
Maintenance – Vehicles	010-500-300-525301	\$4,713	
Miscellaneous Revenue	010-000-000-489900		(\$4,713)

COUNCIL MATTERS

SCHEDULING OF SPECIAL MEETING - ANNUAL RETREAT

Upon a motion by Council Member Mason, seconded by Council Member Underdown Collins, Council moved to schedule a special meeting to hold their annual retreat on Friday, Feb. 10, 2017, from 8:30 a.m. to 5 p.m. at the Council Chambers located at 1500 Blowing Rock Road.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Mayor Pro Tem
SECONDER:	Jeannine Underdown Collins, Council Member
AYES:	Mason, Mizelle, Teague, Collins
ABSENT:	Clawson

SCHEDULING OF SPECIAL MEETINGS REGARDING THE WELLNESS DISTRICT

Town Manager John Ward asked that Council schedule joint meetings with the Planning Commission to meet with Clemson University's Architecture and Health concentration graduate students who will be working on the town's Wellness District. Council Member Lynne Mason noted that the March date proposed is Town Hall Day in Raleigh and asked that the date be rescheduled for that month.

Upon a motion by Council Member Mason, seconded by Council Member Underdown Collins, Council moved to schedule special meetings with the Planning Commission and Clemson University representatives on Feb. 22, 2017, and April 26, 2017, both beginning at 5:30 p.m. at the Council Chambers located at 1500 Blowing Rock Road, and to renegotiate the date to meet in March.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Mayor Pro Tem
SECONDER:	Jeannine Underdown Collins, Council Member
AYES:	Mason, Mizelle, Teague, Collins
ABSENT:	Clawson

TOWN MANAGER UPDATE

Town Manager John Ward updated Council on the provisional certificate of occupancy for The Standard and a time frame for Council to be given a tour of the project, the status of the raw water intake project, and upcoming events, and noted that a group from the UNC School of Government would be attending Council's February regular meeting.

ANNOUNCEMENT OF BOARD VACANCIES

Mayor Brantz announced current board vacancies to be advertised.

ADJOURNMENT

MOTION TO ADJOURN

Upon a motion by Council Member Underdown Collins, seconded by Council Member Mizelle, Council moved to adjourn the meeting at 6:09 p.m.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jeannine Underdown Collins, Council Member
SECONDER:	Charlotte Mizelle, Council Member
AYES:	Mason, Mizelle, Teague, Collins
ABSENT:	Clawson

Christine Pope, Town Clerk

Rennie Brantz, Mayor