

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
June 28, 2023**

CALL TO ORDER

A regular meeting of the Boone Town Council was held at 2:04 p.m. on Wednesday, June 29, 2023 in the Boone Town Council Chambers located at 1500 Blowing Rock Road in Boone. Mayor Tim Futrelle presided. Council members present included Mayor Pro-Tem Edie Tugman, Todd Carter, Virginia Roseman, and Dalton George. Staff present included Town Manager Amy Davis, Town Clerk Nicole Harmon, Public Works Director Rick Miller, Deputy Public Works Director Todd Moody, Planning Director Jane Shook, Sustainability and Special Projects Manager George Santucci, Communications Specialist Laney Pilkington, Police Chief Andy Le Beau, Fire Chief Jimmy Isaacs, Finance Director Guy Miller, Human Resources Director Dale Presnell, Cultural Resources Director Mark Freed, Planner Jessica Mitchell, Planner Mike James, and Deputy Public Works Director Josh Eller. Town Attorney Allison Meade was also in attendance.

MOMENT OF SILENCE

PUBLIC COMMENT - 2:00 P.M.

James Milner of Boone expressed concern with the proposed changes to Chapter 50 of the Town Code regarding water and sewer extensions. Mr. Milner was worried that extensions would initiate a double rate charge in certain cases.

Monica Caruso of Boone spoke regarding the proposed rezoning case near the Chase Hill development. She indicated that the neighborhood had concerns with the proposed zoning changes.

Chelsea Garrett, attorney for Andrea Brown, addressed Council regarding several tracts of land located at the intersection of US Highway 421/East King Street and Bub Teems Road. She indicated that her client would like to discuss the zoning of her properties, the current Comprehensive Plan and potential modifications to the document to help her better understand the Town Council's goals for that Corridor District. Ms. Garrett stated that her client wished to build a hotel on their properties, and that there had been no negative feedback from the neighborhood regarding this proposal. She noted that a hotel would be relatively low impact considering the other uses could be presented. Ms. Garrett informed Council that, since her client's initial proposal was denied, they planned to seek a general rezoning with a different plan in the future.

TENTATIVE AGENDA ADOPTION

Upon a motion by Councilmember Roseman, seconded by Councilmember Carter, Council voted to approve the agenda as presented.

VOTE: Aye: Roseman, Carter, Tugman, George
 Nay: None
 Absent: Nenow

ADOPTION OF ITEMS ON CONSENT AGENDA

Mayor Pro-Tem Tugman thought that a mention should be made of the Town's support for a solar array in the letter to the North Carolina Utilities Commission and felt that reimbursement should be discussed. Councilmember Carter responded that the proposed letter addressed misrepresentations about net metering/net billing.

All members expressed a desire to do more with the budget but indicated that there was simply not enough funding. Upon a motion by Mayor Pro-Tem Tugman, seconded by Councilmember Carter, Council approved the following items on the Consent Agenda:

1. Budget Amendments
Police Department: Public Safety Vehicle Equipment – 010-500-300-516400 – 24,955.00 Sale of Surplus Property- 010-000-000-481200 – 24,955.00 Sale of Assets 6155, 6223, 6224, 6253, 6265, 6307. Proceeds are to be used to re-brand 16 marked cars in the existing fleet. Police Department: Miscellaneous Supplies – 010-500-300-519900 – 317.00 Sale of Surplus Property – 010-000-000-481200 – (317.00) Proceeds from unclaimed property auction to be returned to the Police Department per N.C. General Statutes. Cultural Resources Department: CR Special Projects/Events – 010-418-000-

- 549121 – 79,000.00 CR Donations – 010-000-000-482203 – (79,000.00) Sponsorship money for Boonerang Music & Arts Festival. Fire Department: Capital Outlay – Large Trucks – 051-451-000-573300 – 84,000 Appropriated Fund Balance – 051-451-000-499900 – (84,000) To cover overage on estimated amount for Heavy Rescue Truck Finance Department: Contracted Services – E911 Fund – 011-500-304-577000 – 46,500 Appropriated Fund Balance – 011-500-000-499900 – 46,500 Transfer of fund balance to Watauga County to close out PSAP operations Finance Department: Collections of Taxes – General Fund – 010-403-000-577110 - 22,000 Collections of Taxes – Rural Fire – 051-451-000-577110 - 1,500 Current Year Taxes – 010-000-000-411080 – 22,000 Current Year Taxes – 051-451-000-411080 – 1,500 To recognize actual and potential additional tax revenues and appropriate additional percentage for collection Finance Department: Professional Services – 010-404-000-509100 – 20,000 Appropriated Fund Balance – General Fund – 010-000-000-499900 – 20,000 Appropriate additional funds to cover additional costs incurred Finance Department: Transfer to Water Capital Reserve – 030-700-890-598031 – 300,692 Transfer to Sewer Capital Reserve – 030-700-890-598032 – 301,488 System Development Fees – Water – 030-000-000-467301 – 300,692 System Development Fees – Sewer – 030-000-000-467302 – 301,488 Increase transfer line items to Water & Sewer Capital reserve funds generated by actual Water & Sewer System Development Fees Public Works: Electricity – 030-700-805-523110 – 50,000 Sludge Dryer (Heat) – 030-700-805-523122 – 55,000 Appropriated Fund Balance – 030-000-000-499900 – (105,000) Unanticipated costs and rate increases
2. Financing package for vehicles and equipment, giving authority to the Town Manager, Amy Davis, and Finance Director, Guy Miller to execute the necessary documents
 3. FY 23/24 Budget Ordinance

ORDINANCE

TOWN OF BOONE, NORTH CAROLINA
FY 2023-2024 BUDGET ORDINANCE

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

SECTION 1: It is established that the following revenues will be available in each fund listed for the operation of the Town of Boone government and its activities for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

GENERAL FUND	
CURRENT YEAR TAXES	\$ 8,342,399
PRIOR YEAR TAXES	\$ 350,000
TAX PENALTIES & INTEREST	\$ 20,000
NCVTS TAXES	\$ 251,500
TAX REFUNDS	\$ (1,000)
GROSS RECEIPTS TAX	\$ 55,000
PRIOR YEAR TAX REFUNDS	\$ (250)
MUNICIPAL VEHICLE TAX	\$ 150,000
LOCAL SALES TAX 1%	\$ 1,942,000
LOCAL SALES TAX 1/2% (40)	\$ 784,000
LOCAL SALES TAX 1/2% (42)	\$ 961,000
LOCAL SALES TAX 1/4% (44)	\$ -
LOCAL SALES TAX 1/4% (14) MEDICAID HOLD HARMLESS	\$ 625,000
SOLID WASTE DISPOSAL TAX	\$ 15,000
BUSINESS LICENSE	\$ 1,500
ROOM OCCUPANCY TAX	\$ 650,000
ROOM OCCUPANCY TAX - ADMIN	\$ 65,000
LOCAL VIDEO PROGRAMMING REVENUE	\$ 132,000
UTILITIES FRANCHISE TAX	\$ 993,000
TELECOMMUNICATIONS SALES TAX	\$ 91,500
BEER & WINE TAX	\$ 85,000
ABC REVENUES	\$ 550,000
ABC BOARD - LAW ENFORCEMENT	\$ 45,000
STATE FUNDS - POWELL BILL	\$ 490,000
PYMT IN LIEU OF TAXES - APPALACHIAN STUDENT HOUSING	\$ 161,175
CBP - TREASURY FEDERAL FUNDS	\$ 10,000
BUILDING & SIGN PERMIT FEES	\$ 210,000
COURT COSTS, FEES & CHARGES	\$ 1,000
PARKING VIOLATION PENALTIES	\$ 286,645
PENALTIES - PLANNING & INSPECTIONS	\$ 50,000
SOLID WASTE FEE	\$ 240,000
POLICE FEES	\$ 5,000
FIRE PROTECTION CHARGES - ASU	\$ 265,000
FIRE DEPARTMENT - MISC. FEES/PERMITS	\$ 82,500
E911 SERVICES - TOWN OF BLOWING ROCK	\$ -
PUBLIC WORKS FEES	\$ 25,000
INTEREST EARNED ON INVESTMENTS	\$ 540,000
INTEREST EARNED ON POWELL BILL	\$ 10,000
LIBRARY LOT PARKING	\$ 7,500

TRACY CIRCLE PARKING	\$ 5,500
HORN IN THE WEST PARKING	\$ 90,000
JONES HOUSE PARKING	\$ 7,500
QUEEN STREET PARKING	\$ 65,000
BOOT FEES	\$ 2,100
PARKING METERS	\$ 400,000
OFF STREET PARKING METERS/PAY STATIONS	\$ 275,000
SALE OF SURPLUS PROPERTY	\$ 35,000
SALE OF SURPLUS PROPERTY - POWELL BILL	\$ -
CONTRIBUTIONS/DONATIONS	\$ 50,000
CONTRIBUTIONS/DONATIONS - GREENWAY	\$ 5,000
CONTRIBUTIONS/DONATIONS - CULTURAL RESOURCES	\$ 20,000
RENTAL INCOME	\$ 75,000
RENTAL INCOME - JONES HOUSE	\$ 500
LICENSE FEES	\$ 5,000
CULTURAL RESOURCES REVENUE	\$ 30,000
MISCELLANEOUS REVENUE	\$ 240,202
LOAN PROCEEDS	\$ 554,937
TRANSFER FROM E-911	\$ -
TRANSFER FROM TOWN FACILITIES CAPITAL RESERVE FUND	\$ 371,100
TRANSFER FROM SIDEWALK CAPITAL RESERVE FUND	\$ 25,000
TRANSFER FROM SEPARATION ALLOWANCE TRUST	\$ 71,597
TRANSFER FROM WATER & SEWER FUND	\$ 413,309
TRANSFER FROM MUNICIPAL SERVICE DISTRICT	\$ 60,664
TRANSFER FROM TOB RURAL FIRE TAX	\$ 1,143,712
TRANSFER FROM AMERICAN RESCUE FUNDS	\$ -
APPROPRIATED FUND BALANCE	\$ -
TOTAL GENERAL FUND REVENUE	\$ 22,437,590
EMERGENCY TELEPHONE SYSTEM	
E-911 SERVICE CHARGE	\$ -
E-911 SERVICE CHARGE REALLOCATION REQUEST	\$ -
APPROPRIATED FUND BALANCE	\$ -
TOTAL EMERGENCY TELEPHONE SYSTEM REVENUE	\$ -
NARCOTICS ENFORCEMENT	
APPROPRIATED FUND BALANCE	\$ 35,600
TOTAL NARCOTICS ENFORCEMENT	\$ 35,600
WATER & SEWER FUND	
CDBG - DECK HILL TANK PROJECT	\$ 75,000
CIVIL PENALTIES	\$ 5,000
PUBLIC UTILITIES FEES	\$ 750
INTEREST EARNED ON INVESTMENTS	\$ 75,000
WATER SALES	\$ 4,083,365
SEWER CHARGES	\$ 3,948,312
WATER - LABOR & MATERIAL CHARGES	\$ 125,000
SEWER - LABOR & MATERIAL CHARGES	\$ 25,000

CONNECTION/RECONNECTION/DISCONNECTION FEES	\$ 20,000
SEPTIC TANK DISCHARGE FEE	\$ 250,000
SYSTEM DEVELOPMENT FEES - WATER	\$ 75,000
SYSTEM DEVELOPMENT FEES - SEWER	\$ 75,000
NSF/RETURNED CHECK CHARGES	\$ 500
METER CHECK/RE-READS	\$ 35,000
LATE PAYMENT PENALTIES	\$ 65,000
SALE OF SURPLUS PROPERTY	\$ -
MISCELLANEOUS REVENUES	\$ 60,957
LOAN PROCEEDS	\$ 201,733
TRANSFER FROM WATER CAPITAL RESERVE	\$ 189,000
TRANSFER FROM SEWER CAPITAL RESERVE	\$ 123,600
TRANSFER FROM AMERICAN RESCUE FUNDS	\$ -
APPROPRIATED FUND BALANCE	\$ 238,118
TOTAL WATER & SEWER FUND REVENUE	\$ 9,671,335
HEALTH INSURANCE FUND	
INSURANCE REVENUE - COBRA	\$ 2,520
INSURANCE REVENUE - RETIREE %	\$ 60,000
INSURANCE REVENUE - GENERAL FUND TRANS	\$ 1,814,522
INSURANCE REVENUE - WATER/SEWER FUND TRANS	\$ 524,396
INTEREST EARNED ON INVESTMENTS	\$ 500
MISCELLANEOUS REVENUE	\$ 9,381
TOTAL HEALTH INSURANCE FUND REVENUE	\$ 2,411,319
MUNICIPAL SERVICE DISTRICT	
CURRENT YEAR TAXES	\$ 233,964
PRIOR YEAR TAXES	\$ 1,000
TAX PENALTIES & INTEREST	\$ 400
NCVTS TAXES	\$ 1,600
TAX REFUNDS	\$ -
LOCAL SALES TAX	\$ 67,200
INTEREST EARNED ON INVESTMENTS	\$ 100
TOTAL MUNICIPAL SERVICE DISTRICT REVENUE	\$ 304,264
RURAL FIRE SERVICE DISTRICT	
CURRENT YEAR TAXES	\$ 1,335,195
PRIOR YEAR TAXES	\$ 5,000
TAX PENALTIES & INTEREST	\$ 1,000
NCVTS TAXES	\$ 50,000
TAX REFUNDS	\$ (1,000)
LOCAL SALES TAX	\$ 374,405
TOTAL RURAL FIRE SERVICE DISTRICT	\$ 1,764,600
AMERICAN RESCUE FUNDS	
AMERICAN RESCUE FUNDS	\$ -

TOTAL AMERICAN RESCUE FUNDS	\$ -
GRAND TOTAL - ALL REVENUE	\$ 36,624,708

SECTION 2: The following amounts are hereby appropriated in each fund listed for the operation of the Town of Boone government and its activities for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

GENERAL FUND	
GOVERNING BODY	\$ 144,754
ADMINISTRATION	\$ 1,606,441
FINANCE	\$ 647,648
TAX COLLECTIONS	\$ 168,841
LEGAL	\$ 155,200
ELECTIONS	\$ 20,000
FIRE STATION # 1	\$ 44,471
BLOWING ROCK ROAD BUILDING	\$ 52,950
BROWN BUILDING	\$ 211,150
JONES HOUSE	\$ 40,500
TOWN HALL BUILDING	\$ 56,000
SPECIAL PROGRAMS & PROJECTS	\$ 1,597,725
SUBSIDIES & ALLOCATIONS	\$ 116,000
PROFESSIONAL MEMBERSHIPS	\$ 37,100
GIS	\$ 237,508
FIRE STATION #2	\$ 22,000
DOWNTOWN POST OFFICE BUILDING	\$ 27,300
CULTURAL RESOURCES	\$ 409,265
FIRE STATION #3	\$ 15,314
NON-DEPARTMENTAL/DEBT SERVICE	\$ 379,714
POLICE DEPARTMENT	\$ 5,254,859
COMMUNICATIONS	\$ -
FIRE DEPARTMENT	\$ 4,006,123
PLANNING & INSPECTIONS	\$ 1,090,697
PUBLIC SERVICES & ENGINEERING	\$ 489,467
STREET DEPARTMENT	\$ 2,087,818
PARKING SERVICES	\$ 503,812
POWELL BILL	\$ 490,000
FLEET MAINTENANCE	\$ 408,829
FACILITIES MAINTENANCE	\$ 1,547,304
SANITATION	\$ 260,000
RECYCLING	\$ 309,800
TOTAL GENERAL FUND APPROPRIATIONS	\$ 22,437,590
EMERGENCY TELEPHONE SYSTEM	
E-911	\$ -
TOTAL EMERGENCY TELEPHONE SYSTEM APPROPRIATIONS	\$ -
NARCOTICS ENFORCEMENT DIVISION	
ENFORCEMENT	\$ 35,600

TOTAL NARCOTICS ENFORCEMENT APPROPRIATIONS	\$ 35,600
WATER & SEWER FUND	
PUBLIC UTILITIES (ADMIN)	\$ 966,314
WATER OPERATIONS	\$ 1,731,833
SEWER OPERATIONS	\$ 1,259,685
WATER TREATMENT PLANT	\$ 1,218,487
WASTE WATER TREATMENT PLANT	\$ 1,966,578
UTILITY BILLING & COLLECTIONS	\$ 471,017
NON-DEPARTMENTAL/DEBT SERVICE	\$ 2,057,521
TOTAL WATER & SEWER FUND APPROPRIATIONS	\$ 9,671,335
HEALTH INSURANCE FUND	
HEALTH INSURANCE	\$ 2,411,319
TOTAL HEALTH INSURANCE FUND APPROPRIATIONS	\$ 2,411,319
MUNICIPAL SERVICE DISTRICT	
MUNICIPAL SERVICE DISTRICT	\$ 304,264
TOTAL MUNICIPAL SERVICE DISTRICT APPROPRIATIONS	\$ 304,264
RURAL FIRE SERVICE DISTRICT	
RURAL FIRE SERVICE DISTRICT	\$ 1,764,600
TOTAL RURAL FIRE SERVICE DISTRICT APPROPRIATIONS	\$ 1,764,600
AMERICAN RESCUE FUNDS	
AMERICAN RESCUE FUNDS	\$ -
TOTAL AMERICAN RESCUE FUNDS APPROPRIATIONS	\$ -
GRAND TOTAL - ALL APPROPRIATIONS	\$ 36,624,708

SECTION 3: There is hereby levied a tax rate of thirty seven and one half cents (\$0.375) per one hundred dollars (\$100.00) valuation of property as listed for taxes as of January 1, 2023 for the purpose of raising the revenues listed "Current Year Taxes" in the General Fund in Section 1 of this Ordinance. This rate is based on an estimated total valuation of property for the purpose of taxation of \$2,240,547,669 assessment ratio of 100% of the appraised value. The collection rate of 99.29% is reflected in the budget. The FY 2023-2024 operating budget follows the general reappraisal of real property for the Town of Boone. The Municipal Vehicle tax is levied at \$30.00 per registered vehicle. Solid water fee is set at \$8.00 per month per single-family residence receiving trash pick up.

SECTION 3 (a): There is hereby levied a tax rate of fifteen and three quarter cents (\$0.1575) per one hundred dollars (\$100.00) valuation of property as listed for taxes as of January 1, 2023 for the purpose of raising the revenues listed "Current Year Taxes" in the Downtown Municipal Service District in Section 1 of this Ordinance. This rate is based on an established taxation of \$149,777,930 assessment ratio of 100% of the appraised value. The collection rate of 98.97% is reflected in the budget. The FY 2023-2024 operating budget follows the general reappraisal of real property for the Downtown Municipal Service District.

SECTION 4: The Budget Officer is hereby authorized to transfer appropriations within a Fund as contained herein under the following conditions:

A. He/she may transfer amounts between objects of expenditure within a Department to a maximum of the budgeted amount per Department. Transfers shall be filed with the Finance Department for public and Town Council inspection. Town Council shall approve transfers in excess of the limitation.

B. He/she may transfer available funds between departments of the same fund with an official report of such transfer on file with the Finance Department for inspection by the general public and the Town Council.

C. He/she may not transfer any amounts between Funds.

D. Town Council shall establish, by governing body procedure, the purchasing mechanism for large capital items (e.g. vehicle purchases). Such procedures shall not be in conflict with NCGS 143-129.

SECTION 5: The rates for water and sewer shall be established as set forth in Exhibit A, which is an attachment to this Ordinance. These rates will remain in effect until subsequently repealed or modified by the Town Council.

SECTION 6: Copies of this Budget Ordinance shall be furnished to the Finance Director and to the Budget Officer of the Town of Boone to be kept on file by them for their direction in the disbursement of funds.

ADOPTED this the 28th day of June, 2023 by the Town Council of the Town of Boone, North Carolina.

Mayor

ATTEST:

Town Clerk

**TOWN OF BOONE
WATER AND SEWER ORDINANCE
EFFECTIVE 07/01/2023**

Late Penalty Charge: \$10.00 Meter Re-read Charge: \$10.00 Meter Connect/Disconnect/Reconnect (Each): \$20.00 Returned Check Charge: \$25.00 Septic Disposal Fees (Per 100 Gallons): \$10.00 Residential; \$13.00 Commercial System Development Fees (Per Gallon): \$7.89 Water / \$7.99 Sewer

Deposits (Outside City Limits Deposits are Double Rates Listed Below):		
Residential	\$	150.00
Commercial	\$	500.00
Construction (Temporary):		
3/4"	\$	500.00
2" or 3"	\$	1,600.00

Minimum Fees Each - Water & Sewer:		
(Outside City Limits Minimums are Double Rates Listed Below)		
Minimum Residential 3/4" Includes 0 - 1,000 Gallons or	\$	16.70
Minimum Residential 3/4" Includes 1,001 - 2,000 Gallons	\$	18.25
Minimum Commercial 3/4" Includes First 2,000 Gallons	\$	24.40
Minimum Commercial 1" Includes First 2,000 Gallons	\$	29.70
Minimum Commercial 1 1/2" Includes First 2,000 Gallons	\$	35.00
Minimum Commercial 2" Includes First 2,000 Gallons	\$	35.00
Minimum Commercial 3" Includes First 2,000 Gallons	\$	45.60
Minimum Commercial 4" Includes First 2,000 Gallons	\$	56.20
Minimum Commercial 6" Includes First 2,000 Gallons	\$	77.40
Minimum Commercial 8" Includes First 2,000 Gallons	\$	98.60

Consumption - Water:		
(Outside City Limits Consumption is Double Rates Listed Below)		
2,001 to 4,999 Gallons	\$	7.30
5,000 to 9,999 Gallons	\$	7.60
10,000 to 14,999 Gallons	\$	7.85
15,000 to 19,999 Gallons	\$	8.10
Over 20,000 Gallons	\$	8.40
Consumption - Sewer:		
(Outside City Limits Consumption is Double Rates Listed Below)		
Over 2,000 per 1,000 Gallons - Residential	\$	6.45
Over 2,000 per 1,000 Gallons - Commercial	\$	6.70

Town of Boone Public Works Fee Schedule, Effective July 1, 2023

321 East King Street, Boone, North Carolina 28607

Phone: (828) 263-6230 | Email: publicworks@townofboone.net | <http://www.townofboone.net/pw>

Office Hours: 8 a.m. – 5 p.m., Monday-Friday

PUBLIC WORKS – SERVICES DIVISION.....	2
BRUSH, DEBRIS, & LEAF PICKUP SERVICE FEES (BILLED IN HALF-HOUR INCREMENTS)	2
DEVELOPMENT/CONSTRUCTION RELATED FEES.....	2
SIDEWALK/GREENWAY FEE-IN-LIEU.....	2
STREET/RIGHT-OF-WAY CLOSURES	2
PUBLIC WORKS – UTILITIES DIVISION.....	2
DEVELOPMENT/CONSTRUCTION RELATED FEES.....	2
METER DEPOSITS*	3
CONSTRUCTION METER (TEMPORARY)	3
SYSTEM DEVELOPMENT FEE (PER GALLON).....	3
MINIMUM FEE (EACH) WATER & SEWER*.....	3
DISTRIBUTION – WATER*.....	3
COLLECTION – SEWER*	4
MISCELLANEOUS UTILITY FEES	4
Pretreatment Fee (previous violation)	4
BOD Surcharge (per pound)	4
TSS Surcharge (per pound)	4
Bio-Solid Sales (per ton)	4
WTP Sample Charge (per sample).....	4
Septic Disposal Fee (per gallon)	4
Meter Connect/Disconnect/Reconnect (each)	4
Returned Check Charge.....	4
Meter Re-Read Charge.....	4
Late Penalty Charge	4

*indicates double fee/rate, please see fee for more detail.

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Public Works – Services Division**Brush, Debris, & Leaf Pickup Service Fees (Billed In Half-Hour Increments)**

Brush & Debris	Grapple Truck	\$40.00
	2 Employees	\$36.00
Total		\$76.00
Leaf	Vacuum Truck	\$21.50
	1 Employee	\$18.00
Total		\$39.50

Development/Construction Related Fees

Driveway Permit (per driveway)	\$50.00
Encroachment Agreement	\$75.00
Zoning Permit – Site Plan Review	\$115.00
Re-Inspection Fee (Per Employee, Per Trip)	\$55.00

Sidewalk/Greenway Fee-In-Lieu

Per Linear Foot of Concrete Sidewalk (5' width)	\$110.00
Per Linear Foot of Asphalt Greenway (10' width)	\$80.00
Per Linear Foot of Curb and Gutter	\$40.00
Wheelchair Ramp	\$1,620.00

Street/Right-of-Way Closures

Non-Refundable Petition Fee	\$500.00
All Costs Incurred with Respect to Petition & Closure (e.g., legal notice, recording fees,); Customer to Be Billed Direct Costs	TBD

Public Works – Utilities Division**Development/Construction Related Fees**

Building Permit – Pretreatment Review	\$115.00
Building Permit – Utility Systems Review	\$115.00
Zoning Permit – Site Plan Review for Utility Connections	\$115.00

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Re-Inspection Fee (Per Employee, Per Trip)	\$55.00
Meter Deposits*	
*Note: Deposits for any meter outside corporate limits are double the rate listed below.	
Residential	\$150.00
Commercial	\$500.00
Construction Meter (Temporary)	
3/4"	\$500.00
2" or 3"	\$1600.00
System Development Fee (per gallon)	
Water	\$7.89
Sewer	\$7.99
Minimum Fee (each) Water & Sewer*	
*Note: Minimum rates for use outside corporate limits are double the rate listed below.	
Minimum Residential 3/4" includes 0-1,000 gallons	\$16.70
Minimum Residential 3/4" includes 1,001-2,000 gallons	\$18.25
Minimum Commercial 3/4" includes first 2,000 gallon	\$24.40
Minimum Commercial 1" includes first 2,000 gallons	\$29.70
Minimum Commercial 1 1/2" includes first 2,000 gallons	\$35.00
Minimum Commercial 2" includes first 2,000 gallons	\$35.00
Minimum Commercial 3" includes first 2,000 gallons	\$45.60
Minimum Commercial 4" includes first 2,000 gallons	\$56.20
Minimum Commercial 6" includes first 2,000 gallons	\$77.40
Minimum Commercial 8" includes first 2,000 gallons	\$98.60
Distribution – Water*	
*Note: Minimum rates for distribution outside corporate limits are double the rate listed below.	
2,001-4,999 gallons	\$7.30

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5,000-9,999 gallons	\$7.60
10,000-14,999 gallons	\$7.85
15,000-19,999 gallons	\$8.10
Over 20,000 gallons	\$8.40

Collection – Sewer*

*Note: Minimum rates for collection outside corporate limits are double the rate listed below.

Residential- Over 2,000 per 1,000 gallons	\$6.45
Commercial- Over 2,000 per 1,000 gallons	\$6.70

Miscellaneous Utility Fees

Pretreatment Fee (previous violation)	\$100.00
BOD Surcharge (per pound)	\$0.376
TSS Surcharge (per pound)	\$0.433
Bio-Solid Sales (per ton)	\$1.00
WTP Sample Charge (per sample)	\$20.00
Septic Disposal Fee (per gallon)	
Residential	\$0.10
Commercial	\$0.13
Meter Connect/Disconnect/Reconnect (each)	\$125.00
Returned Check Charge	\$20.00
Meter Re-Read Charge	\$10.00
Late Penalty Charge	\$10.00

Town of Boone Planning and Inspections Fee Schedule, Effective July 1, 2023
680 West King Street, Suite C, Boone, North Carolina 28607
Phone: (828) 268-6960 ♦ Email: planning@townofboone.net ♦ <http://www.townofboone.net/pi>
Office Hours: 8 a.m. – 5 p.m., Monday-Friday

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Town of Boone Planning and Inspections Fee Schedule, Effective July 1, 2023
 680 West King Street, Suite C, Boone, North Carolina 28607
 Phone: (828) 268-6960 • Email: planning@townofboone.net • <http://www.townofboone.net/pi>
 Office Hours: 8 a.m. – 5 p.m., Monday-Friday

Frequently Asked Questions

Many projects require Town of Boone permits before construction may commence. The permit and inspection process is designed to ensure that the development of land and construction of buildings are in compliance with applicable codes. Please see below for additional guidance on how to use this fee schedule. For any questions on whether or not a permit is required or for more information on a permit, please contact the Town of Boone Planning and Inspections Department.

When are fees due? Fees are due upon receipt of invoice. Initial fees shall be paid prior to the processing of the application. Any additional fees assessed prior to the issuance of a permit shall be paid prior to the release of the requested permit, and any subsequent fees assessed shall be paid prior to the final inspection, issuance of a certificate of compliance, or issuance of a certificate of occupancy.

Fee Responsibility & Communications. The applicant shall be responsible for all associated fees. **Additionally, all communications will be sent only to the applicant and relevant design professional.**

Inspection Fees. Where the Department stipulates a maximum number of inspections for a permit, applicants requiring inspections beyond that count incur an added charge per inspection.

A re-inspection fee shall be assessed when the project is not ready for inspection, deficiencies exist or access to the site is not available at the time the inspection has been scheduled to be conducted.

Other Town Department Fees. Fees may be collected on behalf of other Town of Boone Departments for project reviews and inspections as listed herein.

Refund Requests. Refund requests shall be submitted in writing from the applicant. Refund requests for applications not yet reviewed will be processed at 10% of permit costs (up to \$100.00 per permit) to cover administrative costs. All other refund requests will be reviewed by the Director or their designee, who shall evaluate the amount of work completed by the Town as compared to the cost of the permit to ensure the Town has recovered the costs incurred with the processing, review, and inspections associated with the application.

Application Review Time Policy. The Town will strive to process all submittals in a timely fashion, with the knowledge that some submittals are more complex and will require additional review time than those set forth below. Additionally, applications are processed in the order in which they are received. See below for estimated review times (please note, the day of submittal is not counted in the estimated review time):

Application Type	Review Time	Application Type	Review Time
Residential Accessory Solar Energy Systems	3 business days	Commercial Accessory Solar Energy Systems	10 business days
Sign Permits	5 business days	Board/Hearing	25 business days
Short-Form Building Permit	5 business days	Commercial	25 business days
Single-Family	10 business days	All Other	20 business days

Please note, subsequent reviews times are anticipated to be shorter than the initial application review.

Submittals which contain any of the following elements may require additional review time: properties located in a B1 zoning district, Department of Insurance review, encroachment agreements, geologic hazard, historic landmark, historic district, special flood hazard area, steep (or very steep) slope, traffic impact analysis, watershed, or viewshed.

Review Fees. Each application is allowed two (2) reviews under the initial fee, the first review and a second (2nd) review if revisions or supplemental information is required based upon the first review. Each subsequent review after the 2nd review will be charged at 50% of the original fees charged for the application. These fees shall be paid at the time of resubmittal.

Working without Permits Penalty. Initial submittal fees are doubled if the activity or site change requested has already occurred or has been started unless the Director or their designee finds that there are mitigating circumstances.

Town of Boone Planning and Inspections Fee Schedule, Effective July 1, 2023
 680 West King Street, Suite C, Boone, North Carolina 28607
 Phone: (828) 268-6960 • Email: planning@townofboone.net • <http://www.townofboone.net/pi>
 Office Hours: 8 a.m. – 5 p.m., Monday-Friday

Section 1. Board/Hearing Fees		
Board of Adjustment		
Special Use Permit (ANY)/Major Subdivision Preliminary Plat	\$1190	+ \$0.71 per adjacent property owner notification letter
Variance (per each request to vary a standard)	\$605	
Appeal of Administrative Decision	\$995	
Planning Commission/Public Hearing		
Text Amendment	\$875	+ \$0.71 per adjacent property owner notification letter
General Use Zoning Map Amendment	\$765	+ Prorated cost of legal advertising for case
Conditional District Zoning Map Amendment	\$1090	
Historic Preservation Commission		
Certificate of Appropriateness	\$375	+ \$0.71 per adjacent property owner notification letter
Historic Landmark Designation	\$375	
Section 2. Subdivision Fees		
Exempt Division of Land	\$145	
Minor Subdivision	\$180	
Major Subdivision Final Plat	\$245	
Section 3. Annexation Fees		
Voluntary Annexation Fee	\$230	+Cost of legal advertising for case
Exception: The annexation petition fee and newspaper publication costs are waived for applicants with incomes below 60% of local area median family income as defined by the most recent figures published by the U.S. Department of Housing and Urban Development		
Section 4. Zoning Fees		
Single-Family & Duplex (Use 1.06)		
New Construction, Additions, & Other	\$235	
Other Improvement & Repair (Accessory Structures < 500 sq. ft., Yard/Parking Improvements, Culverts, Open Decks, Etc.)		\$190
Commercial/All Other Residential		
<i>Note: Pursuant to UDO Subsection 7.05.02, additional compliance with the UDO may be required when project cost (not including maintenance & repair, with exceptions for work in the SFHA) exceeds a percentage of the overall total development value (land & building). See project manager liaison for more detail.</i>		
New Construction, Additions, Other Accessory Structures, Tier 4: Project Cost Exceeds 75% of Total Development Value		
≤ 2,500 total building square footage and land disturbance	\$545	
>2,501 building square footage	\$1010	
Renovation/Change of Use/Other		
No Site Plan Review Required and Project is < 10% of Total Development Value	\$130	+ Land disturbance ≥ 1 acre, per acre or part thereof \$305 + Special Flood Hazard Review ¹ \$315
Tier 1: Project Cost Exceeds 10% of Total Development Value	\$254	
Tier 2: Project Cost Exceeds 25% of Total Development Value	\$385	
Tier 3: Project Cost Exceeds 50% of Total Development Value	\$585	
Other Improvement & Repair (Façade/Landscape/Lighting/Parking Modification, Culverts, Accessory Structures < 500 sq. ft. \$255		
Small Wireless Facility (Per NC SL 2017-159)		
Small Cell Wireless Base Fee	\$405	+Additional Fee for Facilities 2-5 in the same batch \$100 +Additional Fee for Facilities 6-25 in the same batch \$50

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4. Minutes of the regular Town Council meeting held on June 14, 2023
5. Letter to North Carolina Utilities Commission

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Wireless Transmission Facilities

Colocation or Eligible Facility Modification	\$310	
All Others	\$1265	+ Land disturbance ≥ 1 acre, per acre or part thereof \$305 + Special Flood Hazard Review ¹ \$315

Other Zoning Fees

Annual Short-Term Rental Permit	\$530	
Home Occupation	\$100	
Neighborhood Conservation District Parking Sticker (No Charge)		
Special Flood Hazard Area – Map Revision/Amendment	\$640	+ \$0.71 per adjacent property owner notification letter + Prorated cost of legal advertising for case
Statement of Conformity	\$100*	*Note: Additional permits may be required
Pavement Sealant	\$100	
Temporary Sign Registration (No Charge)		
Zoning Confirmation Letter	\$160	

Section 5. Building/Construction Related Fees

Single-Family & Duplex (Use 1.06)

New Construction, Additions & Other up to 2,500 square feet	\$500	+ Additional fee each sq. ft. over 2,500 sq. ft. \$0.152 + Homeowners Recovery Fee ² \$10
Equipment Changeout (per unit)/Short Form (1 inspection)	\$165	+\$55.00 per inspection trip after 1st TBD
Renovation & Repair; separate charge for each inspection trip	\$150	+ \$55.00 per inspection trip TBD + Homeowners Recovery Fee ² \$10

Commercial/All Other Residential

New Construction & Additions	\$755	+ Per Square Foot \$0.273
Equipment Changeout (per unit)/Short Form (1 inspection)	\$165	+\$55.00 per inspection trip after 1st TBD
Renovation & Repair, Change of Occupancy with Renovations		
≤ 5,000 sq ft total building square footage	\$245	
5,001 – 20,000 square feet of total building	\$295	+\$55.00 per inspection trip TBD
>20,001 square feet of total building	\$370	

Change of Occupancy – no modification to building necessary \$130

Other Building/Construction Related Fees

At Risk Special Footing/Foundation	\$230	+\$55.00 per inspection trip TBD
Contractor Change	\$10	
Total Demolition/Moving	\$300	

Section 6. Combination Zoning and Building Fees

ABC Compliance Inspection	\$250	
Accessory Electric Vehicle Charging Station (No Charge)		
Accessory Solar Energy System (No Charge)		
Construction Trailer	\$255	
Manufactured Home in Park	\$290	
Master Sign Plan or Permanent Sign, per sign	\$180	+Additional Fee for Freestanding Permanent Sign \$55

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Section 7. Development Related Fire Department Fees

New Construction (per square foot)	\$.03	
Building Permit Renovation Review Fee	\$50	
Multi-Family and Commercial Zoning - Site Plan Review	\$115	
New Fire Alarm System up to 10,000 square feet	\$100	+ Additional fee each sq. ft. over 10,000 sq. ft. \$0.01
Fire Alarm System Renovation	\$50	
New Fixed Fire Suppression System	\$100	
Fixed Suppression System Renovation	\$50	
New Sprinkler System up to 10,000 square feet	\$200	+ Additional fee each sq. ft. over 10,000 sq. ft. \$0.02
Sprinkler System Renovation	\$100	
New Standpipe System	\$200	
Emergency Responder Radio Systems	\$150	
New Underground Tank Install (per tank)	\$100	
Underground Tank Removal (per tank)	\$50	

Section 8. Development Related Public Works Department Fees

Utilities Division Fees

Building Permit – Pretreatment Review	\$115
Building Permit – Utility Systems Review	\$115
Zoning Permit – Site Plan Review for Utility Connections	\$115
Sidewalk/Greenway Fee-In-Lieu	
Per Linear Foot of Concrete Sidewalk (5' width)	\$110
Per Linear Foot of Asphalt Greenway (10' width)	\$80
Per Linear Foot of Curb and Gutter	\$40
Wheelchair Ramp	\$1,620

Services Division Fees

Town of Boone Driveway Permit (per driveway)	\$50
Zoning Permit – Site Plan Review	\$115
Encroachment Agreement (per encroachment agreement)	\$75

Section 10. All Other Fees & Penalties

Miscellaneous	\$125	Penalties
Re-inspection Fee (per Town Employee), per trip	\$55.00	Working without Permits @ double applicable permit(s) cost
On-site consultation (per Town Employee), per trip	\$55.00	Other Zoning Penalties – See UDO Section 12.07
Subsequent review fee for each review after 2nd, 50% of original fees		Other Town Code Penalties – See Appropriate Town Code

¹ A special flood hazard review is required where noted for projects which require the applicant to demonstrate compliance with UDO Article 30 through the submittal of elevation or flood-proofing certificates or other similar documentation.

² Required when a licensed General Contractor is used.

4. Consideration of Minutes: June 14, 2023 regular Town Council meeting

5. Letter to N.C. Utilities Commission

VOTE: Aye: Tugman, Carter, Roseman, George
Nay: None
Absent: Nenow

COUNCIL MATTERS

MAYOR'S UPDATE

Mayor Futrelle updated Council on the following matters:

1. The High Country Council of Governments was awarded a grant for a new stormwater project
2. The Boone Tourism Development Authority approved its budget at its last meeting and noted that \$75,000 was allocated to SAHA and \$75,000 to Daniel Boone Native Gardens. Mayor Futrelle announced that the TDA has allocated funding for the design of a proposed Winkler's Creek Bike/Family Park. Mayor Futrelle added that members would like to eventually connect that park to Trout Park by way of a new Greenway addition. Councilmember Roseman stated that it was important to her that the neighborhood was involved with the planning process for this park. Councilmember George added that public hearings should take place during the planning process.
3. The North Carolina Department of Transportation plans to start holding community conversations about the proposed Daniel Boone Parkway. They are also working on resurfacing 321 on Blowing Rock Road.
4. Reports from recently held Howard Street utility meetings have been sent to the USDA for approval, which should take about a month. The reports will then go to the Local Government Commission for approval.
5. McGill Engineers are almost ready to give a report on plans and uses for the Bolick property. He indicated that the initial plan for the property proved to be more grading work than initially planned.
6. Solar panels will be installed soon at the Downtown Boone Post Office. Mayor Futrelle announced that the goal was to supply all Town-owned buildings with solar panels in the future.

Mayor Futrelle declared a break at 3:17 p.m. Council reconvened at 3:34 p.m.

WATER & SEWER SYSTEM RATE & FEE STUDY - REVIEW & UPDATE

Public Works Director Rick Miller presented the water and sewer rate and fee study performed by Raftelis. He indicated that the study was required to be published for 45 days prior to adoption, and that publication had already begun. There was brief discussion regarding the ability of the Town to charge more for system development fees than it currently is. The study will be brought back to Council at a later date for consideration.

AMENDMENT TO TOWN CODE CHAPTER 50 REGARDING INSTALLATION OF METERS

Ms. Meade presented potential amendments to Town Code Chapter 50 regarding the installation of meters. She stated that the former language was too narrow with respect to how it referred to meters and related equipment. Ms. Meade added that the new language made it clear that Public Works was in control of meter installation and to developers or retain installation responsibility as Public Works staff deem appropriate. Upon a motion by Councilmember Roseman, seconded by Mayor Pro-Tem Tugman, Council voted to approve the amendment to Town Code Chapter 50 regarding the installation of meters as presented.

VOTE: Aye: Roseman, Tugman, Carter, George
Nay: None
Absent: Nenow

Ordinance

**AN ORDINANCE TO AMEND THE TOWN OF BOONE
CODE OF ORDINANCES SECTION 50.066 REGARDING CERTAIN METER
INSTALLATIONS**

WHEREAS, upon the recommendation of the Public Works Director, the Boone Town Council wishes to clarify certain requirements of the Water/Sewer Ordinance regarding the installation of meters and related equipment;

NOW THEREFORE, BE IT ORDAINED BY THE BOONE TOWN COUNCIL THAT:

SECTION 1. Section 50.066 of the Boone Code of Ordinances is hereby revised as set forth in the attached **Exhibit A** to this Ordinance, which is incorporated by reference.

SECTION 2. All provisions of any Town ordinance in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 3. In the event any section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase or word of this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of this ordinance, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this ordinance.

SECTION 4. This Ordinance shall be effective immediately upon its adoption by Town Council.

Adopted this ____ day of _____, 2023

Tim Futrelle, Mayor

ATTEST:
Town Clerk

EXHIBIT A

§ 50.066 METERS, METER SETTERS ASSEMBLIES AND BOXES ENCLOSURES.

~~(A) Meter boxes and copper setters must be purchased from the town. Copper setters shall be Ford or equal. Copper setters shall be installed with locked rings on the town side of the meter and with check valves. Meter boxes shall be Dewey Brothers or approved equal.~~

~~(B) Commercial and industrial meters shall be of a size and configuration approved by the town.~~

(A) ~~(C)~~ The town shall provide and install all meters, meter boxes assemblies, and setters enclosures at the owner's or developer's expense except as provided at division ~~(C)~~ of this section.

(B) Commercial and industrial meters shall be of a size and configuration as deemed appropriate by a design professional and approved by the town.

~~(C)~~ Taking into account the town's workforce resources and any other circumstances deemed relevant, the Administrator may require that the developer install meters, meter boxes assemblies, and setters enclosures for new development or redevelopment involving either or both of the following:

- (1) Multifamily residential use requiring installation or replacement of more than 12 meters; or
- (2) Commercial use requiring installation or replacement of meters 1.5 inch or greater in size. Any such installation by a developer must be inspected by and completed to the satisfaction of the Administrator.

**CONSIDERATION OF POSSIBLE AMENDMENT TO CHAPTER 50 REGARDING
WATER AND SEWER EXTENSIONS**

Ms. Meade presented a possible amendment to Chapter 50 regarding water and sewer extensions. She indicated that the amendment would give Council discretion based on public interest considerations to grant exceptions for certain situations, such as the proposed Kill-Chill facility, and the ASU water treatment plant, to allow the extension of water and/or sewer service without annexation. In response to Mr. Milner's concerns noted earlier in the meeting, Ms. Meade stated that the proposed amendment does not affect rates, did not affect system development fees, and otherwise did not change other generally-applicable regulations regarding water/sewer service and charges. Brief discussion was held regarding public/private enterprise extensions, as well as extensions to affordable housing projects. The potential annexation of the Landfill Meats/Kill Chill property was discussed at length, with Ms. Meade expressing concerns about the Town taking over former landfill property. Mr. Miller reminded Council that the Town has been found liable for the landfill property in a previous lawsuit. Ms. Shook added that it was important for any zoning/development related conditions applied to potential extensions to be clear so that standards were enforceable. Kelly Coffey with the High Country Council of Government clarified that Watauga County will own the Landfill Meats/Kill Chill property, and would sign a lease with the butcher. He added that according to the grant funder, the County would be required to retain ownership of the property, and that they were indifferent as to whether the property was annexed. Councilmember Roseman suggested the language in the proposal be amended to require general site plans be submitted for review before approval. There was concern expressed about the actions of future Councils with regard to this text. Mayor Pro-Tem Tugman made a motion to approve the amendments to Chapter 50 regarding water and sewer extensions as amended. Councilmember Roseman suggested a friendly amendment to require general development plans prior to approval. This motion failed for lack of a second. It was the consensus of Council to table this item until a revised draft was presented.

CONSIDERATION OF AMENDMENTS TO TOWN CODE CHAPTER 73, TOWING AND BOOTING

Councilmember George stated that he wanted to thank Attorney Meade for bringing back an ordinance that reflected the discussion this Council had related to the towing and booting practices that happen in this Town. He added that he has read many of North Carolina's Supreme Court cases related to towing and booting and that he saw this ordinance change as the most reasonable expansion of protections under current State law. Councilmember George applauded Attorney Meade and the rest of Council, and added that this was something that needed to be addressed for a long time. Police Chief Le Beau stated that it was his belief that the gravel lot on Howard Street that has been such an issue with respect to booting would soon become pay-to-park, and expressed hoped that the Town could work with LMS toward an amicable relationship. Councilmember Carter asked staff to prepare a press release regarding the new regulations if approved. Upon a motion by Councilmember Carter, seconded by Councilmember George, Council voted to approve the amendments to Town Code Chapter 73 as presented.

VOTE: Aye: Carter, George, Roseman, Tugman
 Nay: None
 Absent: Nenow

Ordinance

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AN ORDINANCE TO AMEND THE TOWN OF BOONE CODE OF ORDINANCES CHAPTER 73

WHEREAS, the Boone Town Council finds that unfair and predatory towing and booting practices continue to be a problem in the town limits of Boone;

WHEREAS, the Boone Town Council finds that visitors to the Town sometimes erroneously believe that trespass booting from certain lots are the result of town actions, harming the reputation of the town and its government and potentially diminishing visitation to certain areas, especially of the downtown;

WHEREAS, the Boone Town Council finds that it is appropriate and in the public interest for private parking lot owners/operators to be identifiable and accountable to the public for unfair or predatory practices of the parking enforcement personnel that they choose to hire;

WHEREAS, the Boone Town Council finds that towing and booting companies may attempt to circumvent the consequences of their failure to comply with the town ordinance and/or their failure to properly train their agents by employing purported “independent contractors” to conduct their business, and the Boone Town Council further finds that it is appropriate and in the public interest for such companies to be held responsible for the conduct and/or ill-training of their employees and contractors;

NOW THEREFORE, BE IT ORDAINED BY THE BOONE TOWN COUNCIL THAT:

SECTION 1. The following sections of Chapter 73 of the Boone Code of Ordinances are hereby revised as set forth in the attached **Exhibit A** to this Ordinance, which is incorporated by reference. All other sections of Chapter 73 remain unchanged and effective.

SECTION 2. All provisions of any Town ordinance in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 3. In the event any section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase or word of this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of this ordinance, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this ordinance.

SECTION 4. This Ordinance shall be effective as of _____, 2023.

Adopted this _____ day of _____, 2023

Tim Futrelle, Mayor

ATTEST:
Town Clerk

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EXHIBIT A

CHAPTER 73: TOWING AND BOOTING

Section

73.01 Definitions

73.02 Authority for and scope of chapter; Persons liable for violations

73.03 Advanced notice of trespass towing or booting required

73.04 Trespass towing practices

73.05 Booting practices

73.06 Notice of fees and payment options; fees to be reasonable

73.07 Receipts

73.08 Complaint information

73.09 Compliance dates

73.10 Restrictions related to certain criminal convictions

73.99 VIOLATIONS; CIVIL PENALTIES FOR VIOLATIONS; OTHER ENFORCEMENT

Measurespenalty

§ 73.01 DEFINITIONS.

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

BOOT. 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. ~~A~~Includes any person or entity that engages in, or that owns or operates a business that engages in, the booting of motor vehicles parked in a private parking lot ~~for compensation.~~

CONTRACT. Any agreement, whether oral or written, express or implied.

EMPLOYEE: A natural person who works for another person as an employee (i.e., as a W-2 worker).

SUBCONTRACTOR: A natural person or any other person who works for another person as a purported independent contractor and not as an employee.

ESTABLISHMENT. The use of a structure for a commercial purpose.

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

NATURAL PERSON. An individual human being.

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PARKING ENFORCEMENT COMPANY. A towing company or booting service engaged in towing or booting activity governed by this Chapter.

PERSON: Any natural person or entity, including but not limited to corporations, partnerships, trusts, etc.; i.e., a legal person.

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. ~~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~~TRESPASS TOW. To tow a motor vehicle that is parked ~~on~~ in 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; PERSONS LIABLE FOR VIOLATIONS.

73 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).

74 This chapter is applicable to any trespass towing or booting activities that takes place for compensation in a private parking lot in the town limits, except as provided in division (D) below.

75 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~~ unless in compliance with all the requirements of this chapter.

76 This chapter is not intended to limit, modify or abrogate:

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73 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;

74 The towing of vehicles encroaching into areas clearly designated as fire lanes; or

75 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.

(F) If a towing company or booting service acts in violation of this Ordinance through an employee, it is the towing company or booting service (whether a natural person or corporation, partnership, or other entity) that shall be cited for the violation. The employee shall not be personally cited.

(G) If a towing company or booting service acts in violation of this Ordinance through a subcontractor, both the towing company or booting service (whether a natural person or corporation, partnership, or other entity) and the subcontractor who engaged in the violation shall be cited for the violation.

§ 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 at such locations and heights so as to provide a conspicuous warning to drivers of vehicles who are not familiar with that parking lot that the lot is private and that unauthorized vehicles will be towed or 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~~ driver 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.

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

74.01 If the parking lot serves a shopping center, mall, or office building, then at the option of the property owner or lessor either:

- The name of the shopping center or mall or office building; or
- 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.

1. Effective as of August 15, 2023, if a parking lot described in this subsection (b) is located in the downtown municipal services district (MSD), then in addition the following information: "This is a Private Lot; for complaints about parking enforcement in this lot, please call [name; telephone number]" with the name and telephone number of the owner or lessee of the lot who contracts for parking enforcement services. For clarification, such name and telephone number must be that of the owner or lessee itself, and may not be that of an agent of the lot owner or lessee, such as the parking enforcement company. If at any time the telephone number on this sign is not in working order to reach the property owner or lessee during regular business hours, then said property owner or lessee is in violation of this ordinance and subject to citation. EXCEPTIONS: This subsection shall not apply to parking spaces that require display of a permit (e.g., hang-tag or decal) or are administered through a pay-upon-parking system.

(3) There shall be a minimum of one warning sign for each vehicular entrance to the parking lot 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 warn vehicle drivers as specified per the foregoing provisions of this division (A). If the property owner or lessee disagrees with the direction provided by the liaison officer, the owner or lessee may appeal

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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 division (A), the liaison officer shall re-consider the sign layout and may require the re-location of signs or the installation of new signs.

75 As an alternative to the signage required per division (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:

75.01 On each sign facing the individual parking spaces; or

75.02 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.

76 As an alternative to the signage required per division (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 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:

76.01 That the parking lot is a private parking lot and unauthorized vehicles will be towed;

76.02 The name and telephone number of the towing company and location where any towed vehicle is taken;

76.03 The towing charges imposed by the towing company;

76.04 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

76.05 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.

77 Once an owner or operator of a vehicle has been notified of unauthorized use pursuant to division (C) above, 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.

73 An occupied vehicle may not be towed or attached to a towing vehicle.

74 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.

75 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.

76 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.

77 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.

78 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.

79 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.

79.01 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.

79.02 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.

73 An occupied vehicle may not be booted.

74 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.

75 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.

76 (1) No natural person may engage in booting in any capacity (whether as an employee, subcontractor, officer, sole proprietor, etc.) 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:

76.01 Authorize a criminal background review by the Boone Police Department or such other entity as the Town may enlist. Provide a certified copy of the applicant's criminal record in North Carolina from the Watauga County Clerk of Superior Court;

76.02 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 (to include the legal name, mailing address, and ~~—~~ physical location of the 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

76.03 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.

(2) A natural 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 three-quarters of an inch in height.

73 Any vehicle used in connection with booting must have insignia on both the operator's door and the front passenger door or a car-top-mounted sign that identifies the company with which the attendant is employed or associated by name 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 inches in height; provided, that notwithstanding any other provision of this chapter, vehicle insignia must comply with this three-inch minimum requirement when new insignia is purchased, when insignia is replaced, or by June 30, 2017, whichever occurs earlier.

74 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:

74.01 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";

74.02 All fees that may be charged prior to release of the vehicle;

74.03 That all fees may be paid by cash, credit card or debit card; and

74.04 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.

(5) If a fee is charged in the event that (and on grounds that) the notice itself is destroyed, then in capital letters "DO NOT DESTROY THIS NOTICE. AN ADDITIONAL FEE OF \$ WILL BE CHARGED IF YOU DO NOT RETURN THIS NOTICE TO [NAME OF PARKING ENFORCEMENT COMPANY]"

75 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.

76 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.

77 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 hours, so long as the requirements of either § 73.03(A) or 73.03(C) are met as to that trespass tow.

78 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

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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 division.

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

73 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:

73.01 (a) 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

(b) 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.

73.02 Notice may be given:

- On the parking lot warning sign(s) to be posted as provided at section § 73.03(A) or (B)(2) above, or on separate sign(s) attached to the same sign post or immediately adjacent on the same structure; or

- 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

- 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

~~— (d) 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.~~

78 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.

79 Any towing company or booting service engaged in activities subject to this chapter must provide to the Police Department (i) a schedule of all its fees and charges and (ii) a true and correct copy of the notice(s) employed by the service pursuant to § 73.03(C) and/or §73.05(F) hereinto the Police Department, and such schedule of fees and notices 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.

80 A towing company or booting service may not assess any fee or other charge in connection with a trespass tow or booting unless all of the following conditions are met~~that is not both~~:

- (1) The fee or other charge has been Publicly-publicly noticed as required per divisions (A) and (B) above; and
- (2) The fee or other charge is Set-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 division (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.
- (3) The particular trespass tow or booting at issue has been conducted in full and complete compliance with all requirements of this Ordinance.

(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.

(F) A towing or booting service may not charge or collect any fee or other charge for a trespass tow or booting that is conducted in a manner that is in violation of any requirement of this ordinance. Any fee or other charge that is paid in violation of the foregoing provision must be refunded upon demand. Failure to comply with this subsection (F) constitutes a separate and distinct violation of this ordinance and shall be subject to citation in addition to the underlying violation.

§ 73.07 RECEIPTS.

(A) 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:

- (1) A breakdown of individual fees charged;

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81 The total amount paid and method of payment;

82 The name of the person accepting the payment;

83 A clear and accurate reason for the towing or booting and the date, place and time of the towing or booting; and

84 The appeals process, if any, provided to contest the tow or booting.

(B) 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:

(c) On the parking lot warning sign(s) to be posted as provided at section § 73.03(A) or (B)(2) above, or on a separate sign attached to the same sign post or immediately adjacent on the same structure; or

(d) 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.

(e) 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

(f) 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 except as follows:

(5) 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.

(6) 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

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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.

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

85.01 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

85.02 For a period of two years following conviction of any manner of assault related to a trespass tow or booting within the town.

86 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 VIOLATIONS; CIVIL PENALTIES FOR VIOLATIONS; OTHER ENFORCEMENT MEASURES.

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

(g) (1) Any person-trespass tow or booting conducted in violation of a requirement of this Chapter shall subject the responsible towing company, booting service, and/or subcontractor responsible for said violation 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 by the same towing company, booting service, or subcontractor, then the civil penalty shall be increased for each additional violation over one during such period, as follows.

1. Second offense within one year: \$250.
2. Third offense within one year: \$500.
3. Fourth offense within one year: \$750.

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(d) Fifth and any subsequent offense within one year: \$1,000.

(2) 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.

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

(C) This chapter may also be enforced by the lawful order of a law enforcement officer, who may, by way of example only, order that a tow connection be undone or boot be removed without charge to the vehicle operator and/or that a collected charge be refunded. Failure to comply with such order of a law enforcement officer shall constitute a separate and distinct violation of this Chapter subject to additional citation.

(DE) 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.

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**SELECTION OF A NEW ROADWAY AND NEW PEDESTRIAN PROJECT FOR
CONSIDERATION IN THE STATE TRANSPORTATION**

Public Works Deputy Director Todd Moody presented potential roadway and pedestrian projects for consideration in the State Transportation Plan. Mayor Pro-Tem Tugman was concerned that the Highway 105 project was not included on the list. Mr. Moody indicated that this was a two year process and that the current plan was started 4 years ago and put on hold due to the financial crisis. He added that he believed the Highway 105 project would score well according to the NCDOT's criteria. Upon a motion by Councilmember Carter, seconded by Mayor Pro-Tem Tugman, Council voted to nominate project number one on the roadway project list (NC Highway 105 from NC Highway 105 Bypass to US Highway 321) and project number one on the pedestrian project list (Multi-use side path along New River Hills from Casey Lane to US Highway 421).

VOTE: Aye: Carter, Tugman, Roseman, George
 Nay: None
 Absent: Nenow

Mayor Futrelle declared a break at 5:19 p.m. Council reconvened at 5:36 p.m.

WORK SESSION**WORK SESSION DISCUSSION AND UPDATE ON COMPREHENSIVE PLAN PROJECT - WORK SESSION**

Planning Director Jane Shook presented detailed responses from firms for the Comprehensive Plan update project. She recommended that Council negotiate cost and other details with Quantum since this firm had the most experience and most attractive work plan. Ms. Meade suggested that Town Council and staff communicate with the consultant first regarding the information obtained in the public meetings that have already been held by staff. A break in this discussion was taken in order to address planning matters. It was the consensus of Council to move forward with consulting firm Quantum as the first choice for the Comprehensive Plan update, with Inspire being the second choice.

Councilmember George asked that staff bring back additional information for discussion regarding a potential municipal service district along Blowing Rock Road. He also suggested that staff work to identify areas in town that are not used and turn them into pollinator gardens. Councilmember Roseman agreed with this proposal, and suggested that staff create pollinator areas within maintained areas to avert any confusion. Mr. Moody indicated he would work with other staff members to bring back a list of potential properties.

Mayor Pro-Tem Tugman asked staff to visit the forested area off Martin Luther King, Jr. Boulevard, as she was worried an invasive species of grass was taking over. Mr. Santucci indicated that he had already spoken with ASU landscape staff, who offered to have someone come look at the property and potentially work with the Town on removing the grass if needed.

A potential permanent no-left turn was discussed in the area of the Recreation Center near State Farm Road and Martin Luther King, Jr. Boulevard. Ms. Davis stated that she had discussed this matter with the County, and was told that they would be willing to look into this if the Town was willing to pay half of the cost of a traffic study. Councilmember Carter suggested that staff build a median similar to the near Hardin Park School.

A request by Brenda Council to install a sculpture on Town property at the Downtown Post Office was discussed. It was suggested that the Town offer her to install the sculpture on the concrete pad near the post office and to install benches. Planning Director Shook stated her view that it would not look good to remove the bike racks at the post office to make room for the sculpture since other property owners were required by the UDO to have a certain number of bicycle racks. It was noted that this property did not have a documented owner. Mayor Pro-Tem was in disagreement about allowing the sculpture on the Town-owned property at the post office, stating that the sculpture was a commercial project. Councilmember George suggested sending the matter to the Historic Preservation Commission for a recommendation. Ms. Meade confirmed that this matter could be heard by the Historic Preservation Commission in its advisory capacity, and noted that no one had a right to install art on Town property. Mayor Pro-Tem Tugman stated that she believed sending the matter to the Historic Preservation Commission was passing the buck. Councilmember Roseman suggested that the language be drafted in a way that the location was clear and narrow. Ms. Meade added that language could be built into a potential agreement that the statute could be removed if needed. Upon a motion by Councilmember Roseman, seconded by Councilmember George, Council voted to extend an invitation to the artist to submit an application for their art to be installed with the capability of being removed on the concrete pad near the post office to the Historic Preservation Commission and that the HPC should give Council a recommendation on the matter.

VOTE: Aye: Roseman, George, Carter
 Nay: Tugman
 Absent: Nenow

PUBLIC COMMENT - 6:00 P.M.

Melinda Clement read the following statement:

"I'd like to personally thank our Planning Commission, especially Dr. Eric Plaag, for your dedicated research, educating ourselves and the public during the last public hearing on this land, on the hazards of disturbing this parcel of land and the future harm that will be done.

Disturbing this flood plain will increase the flooding already being endured by your Kellwood Drive neighbors. These are people whose lives have been disrupted three times just since your previous requests, by flooding from the heavy rains. We have shown you pictures of your neighbors' homes and your own land being flooded.

Mr. Yates ad Town Council, I agree everyone has the right to do with their land what they'd like, but when you have been educated by the smartest, your own Planning Commissioners, and Elizabeth Underwood of the New River Conservancy, why would you even consider anything BUT donating this land to the New River Conservancy to care for? With all the information shared, how can you choose to do anything other than help your neighbors in the future?

My dad built beautiful homes in an old section of Raleigh. Today, he is gone and I am not sure which of those houses he built.

Had my dad owned a piece of land as you do, Mr. Yates, and chosen to donate that land for conservation? My dad would be remembered forever for doing the right thing for his neighbors.

By donating this land, and the future of your Yates' generations of kids to come, who may one day want to live in our wonderful Kellwood neighborhood by the way, you and your Yates families will be honored forever, and revered in Boone and Watauga County. These forks of the already-treasured New River are near the headwaters. One shovel in the ground will kill all the aquatic wildlife and disturb the ways the water flows during a flood, creating harm to your neighbors who border your land. You know all of this, if you listed as I did, to so much information already shared in past meetings.

Build your one or two houses and you will be remembered as creating more harm to others, and that will become your Yates' legacy.

Do the right thing and donate this land and protect your Boone neighbors. How could your human heart choose anything else?

Please Mr. Yates, be remembered as the greatest steward of all, protecting your neighbors from further harm and protecting the quality of the New River as it runs through Boone."

Mr. Yates noted that he had already received approval for a general use zoning and reaffirmed his right to do with his property as he wished.

PLANNING MATTERS

CONSIDERATION OF CASES HEARD AT THE MAY 22, 2023 PUBLIC HEARING

The potential for subdivisions were discussed briefly, with Ms. Meade indicating that if the applicant wished to build more than one house on the property, it would have to go through the subdivision process. Councilmember Roseman stated that if Council voted to approve this zoning request, it was because members wanted to do what was fair and reasonable, and noted that this request for one home was better than a hypothetical request for fifteen units. Councilmember Carter commended the neighborhood for coming together for their community Councilmember George agreed with the sentiments indicated by Councilmember Roseman in terms of the single home being a lesser impact than could be on the property. Councilmember Roseman then made a motion, seconded by Councilmember Carter, that the proposed amendment to the Town's zoning map is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is consistent with Comprehensive Plan Policy 2.2.2 Utilities B. Water and sewer services shall be concentrated within the limits of a geographically defined Urban Growth Area. The Primary Growth Area shall receive first priority for the provision or enhancement of water and sewer services. Comprehensive Plan Policy 2.2.5 Environmental Health E.1 Consider the use of innovative zoning techniques

such as density bonuses and transfer of development rights in exchange for preservation of significant environmental features. F. Recognizing the economic and environmental costs of commercial and residential stormwater runoff, innovative stormwater management techniques such as permeable sidewalks, driveways, and parking areas shall be encouraged. Comprehensive Plan Policy 2.3.1 Community Appearance A. Measures to improve the effectiveness of grading, landscaping and buffering standards for new and existing developments shall be encouraged. Comprehensive Plan Policy 2.3.2 Community Character A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community. E. New development, redevelopment, and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and supportive, whenever possible, of Boone's original community character as a High Country small town. Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods. H. The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

VOTE: Aye: Roseman, Carter, Tugman, George
 Nay: None
 Absent: Nenow

Ms. Roseman made a second motion to approve the proposed amendment to the Town's zoning map and believes approval of ordinance PL06583-040523 is reasonable and in the public interest because the proposed project will have a smaller impact on the community than other possible future development and because it provides a safer community. Councilmember Carter seconded the motion.

VOTE: Aye: Roseman, Carter, Tugman, George
 Nay: None
 Absent: Nenow

Ms. Shook presented case Ms. Meade noted that staff had not yet received plans from the applicant, and that timely receipt of these documents was crucial to the project timeline. Nick Katers of ASU indicated that staff was working on the documents now, and hoped to have them to Planning staff within the next two weeks. Upon a motion by Councilmember Carter, seconded by Councilmember Roseman, Council voted to approve the proposed amendment to the Town's zoning map and that it is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is consistent with: Comprehensive Plan Policy 2.1.1 Economic Development I. Small business start-ups, expansions, and spin-offs shall be encouraged. The presence of ASU and Caldwell Community College and Technical Institute shall be recognized as a necessary and important resource for area businesses. Comprehensive Plan Policy 2.1.2 Commercial Development I. Office and institutional development may be encouraged as a transitional land use between residential areas and higher intensity commercial activities.

VOTE: Aye: Carter, Roseman, Tugman, George
 Nay: None
 Absent: Nenow

Councilmember George expressed his thanks to Matt Dockham of ASU for his work on the project, and was hopeful that the project would address walkability and parking concerns in the area. Councilmember Carter made a second motion that the proposed amendment to the Town's zoning map and believes approval of Ordinance PL06596-041223 is reasonable and in the public interest because it will improve parking, will allow more efficient use of the property, and will improve Town and Gown cooperation. Councilmember Roseman seconded the motion.

VOTE: Aye: Carter, Roseman, Tugman, George
 Nay: None
 Absent: Nenow

CLOSED SESSION

Upon a motion by Councilmember George, seconded by Mayor Pro-Tem Tugman, Council voted to enter into closed session at 7:49 p.m. pursuant to:

1. N.C. Gen. Stat. § 143-318.11(a)(1), to review, approve and seal closed session minutes from Council's prior closed session(s).

2. N.C. Gen. Stat. § 143-318.11(a)(3), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council and obtain legal advice, consider and/or give instructions to the attorney concerning one or more potential legal claims.

VOTE: Aye: George, Tugman, Carter, Roseman
 Nay: None
 Absent: Nenow

ADJOURNMENT

Mayor Futrelle adjourned the meeting

Nicole Harmon, Town Clerk

Tim Futrelle, Mayor