

**MINUTES – SPECIAL MEETING
BOONE TOWN COUNCIL
December 16, 2019**

CALL TO ORDER

A special meeting of the Boone Town Council was called to order on Monday, December 16, 2019 at 6:00 p.m. in the Council Chambers located at 1500 Blowing Rock Road in Boone. Mayor Rennie Brantz presided. Council members present included Mayor Pro-Tem Loretta Clawson, Lynne Mason, Connie Ulmer, Sam Furguele and Marshall Ashcraft. Staff present included Town Manager John Ward, Town Clerk Nicole Harmon, Finance Director Amy Davis, Fire Chief Jimmy Isaacs, Planning Director Jane Shook, Deputy Director/Chief Building Inspector Stacey Miller, Planner Marty Little and Police Sergeant Scott Mackler. Town Attorney Allison Meade was also present.

The purpose of the meeting was to consider items as listed on the previously published agenda.

ANNOUNCEMENTS

Mayor Brantz welcomed all in attendance and asked anyone who wished to speak during the Public Comment section of the agenda to please sign up.

TENTATIVE AGENDA ADOPTION

Upon a motion by Ms. Mason, seconded by Mr. Furguele, Council voted to approve the agenda as presented.

VOTE:	Aye:	All
	Nay:	None

PUBLIC COMMENT

Eric Plaag of Boone signed up to speak on his own behalf to make Council aware that the Turner House matter was on the Watauga County Commissioner's upcoming meeting agenda, and expressed his concern at Commission members' swift action. He stated that he and Town representatives had met with two Commissioners and the County Manager in an attempt to find a solution, and that he was perplexed as to why that conversation had stopped and why the County seemed to be moving so aggressively toward demolishing the house. Mr. Furguele asked whether Dr. Plaag planned to appear at the upcoming meeting, to which Dr. Plaag responded that he did plan to attend the meeting. Mr. Furguele expressed disappointment that the County was moving so quickly to demolish this historic home when the Town was so close to declaring its own historic district, which the house would be included in. Mayor Brantz asked whether the Commissioner's agenda stated whether the property would be used for parking. Dr. Plaag answered that the agenda did not specify what the property would be used for. Mr. Furguele stated that at one time there was discussion between the Town and County that the Turner House could be traded for a joint project parking deck on Queen Street, and asked whether or not there was interest in this deal expressed by the County. Mr. Ward answered that the County indicated that they would sell the house for what they paid for it, which was approximately \$752,000. Mr. Furguele felt that if the County was not concerned about protected local historical properties, it was difficult to know what solution, if any there was. He believed that there were solutions, but that the County seemed uninterested in working with the Town to find one. Dr. Plaag further noted that he had been in touch over the last month with the County Manager and John Turner to obtain access on behalf of Digital Watauga to obtain photos of the building, though an agreement had not yet been reached on a date. Dr. Plaag added that Mr. Turner believed that his lease extended until May, though the County was of the opinion that the lease lasted through April. It was the consensus of Council to have staff continue to reach out to the County on a solution up until the time that the lease expired.

REQUESTED APPEARANCES

JASON CARPENTER - COMBS, TENNANT & CARPENTER, P.C.

Jason Carpenter with Combs, Tennant, and Carpenter, P.C. presented the annual financial report for the 2018/19 fiscal year, and reported no issues or findings. He stated that the Town had a tax collection rate of 99.15% which was up from last year and was incredibly high. Mr. Carpenter added that the Town took in around 27 million dollars in revenue and that Finance Department staff did a great job. Mr. Furguele asked about the DBDA budget spreadsheets, and why they were included in the report if they were not audited. Mr. Carpenter answered that both the DBDA and the ABC board were audited, but not to governmental standards. Mr.

Furguele asked what was included in the "other tax" category, with Ms. Davis and Mr. Carpenter answering that sales tax, occupancy tax and franchise tax, among others were included in this category. Mr. Furguele pointed out an incorrect date on page 34 of the report, and asked about the credit rating scales. Mr. Carpenter answered that he was unsure about the credit rating scales, but would work with Ms. Davis to get an answer to that question. Mr. Ward added that this would be covered in detail during the budget retreat, with Mr. Furguele indicating that he would like to get a better understanding in terms of borrowing money for the Howard Street project. He also asked Mr. Carpenter in his general auditing practice whether a one million dollar liability policy for workers compensation seemed low. Mr. Carpenter answered that one million dollars was frequently seen as a limit, but that he had also seen larger limits. Mr. Carpenter finished by stating that Ms. Davis and her staff did a good job and that he was unaware of any areas for improvement. He indicated that he would soon go over the upcoming yellow book changes with her, and thanked the Town and Council for the opportunity to provide this service to the Town.

DAVID POND - WK DICKSON

David Pond of WK Dickson & Co., Inc. presented copies of the American Council of Engineering Companies of North Carolina's Grand Conceptor Award to Debbie Sexton with USDA and Mayor Brantz which was recently awarded to them for their work on the Town of Boone Water Intake project.

APPROVAL OF ITEMS ON CONSENT AGENDA

Mr. Ward noted that grant funding had been awarded through the Clean Water Management Trust Fund, and that since this Council approved the action to move forward, he thought it was appropriate that this Council should approve the budget amendment to transfer the funds. Mr. Furguele asked that the minutes be tabled to allow him time to review and made a motion, which was seconded by Ms. Mason, to approve the following items on the Consent Agenda:

1. Consideration of Approval of Tax Releases (Mr. Furguele noted that the County was apparently unaware that they were tax exempt).
2. Consideration of Budget Amendments (Fire Department - Maintenance & Repair Vehicles (\$1,956.00)
Contracted Services - Administration (\$100,000)

VOTE: Aye: All
 Nay: None

COUNCIL MATTERS

CONSIDERATION OF CASES HEARD AT THE NOVEMBER 25, 2019 PUBLIC HEARING

It was noted that Case PL03271-110419: Hackett Properties Inc. - General Use Zoning Map Amendment was withdrawn at the Public Hearing, and Case PL03227-101819: Use T-13 Temporary Use 9.01 Public Colleges and University Leased Swing Space in the B1 Central Business District - UDO Text Amendment was withdrawn subsequent to the Public Hearing. Mr. Furguele addressed comments previously made that he had asked for additional information on the ASU rezoning case after the public hearing and said that he did not believe it to be inappropriate. He indicated that after he reflected on the case, it struck him as odd that Council did not know the position of the Theatre in the matter since an amendment would directly affect its funding and operations, and that some of the comments made by Planning Commission Member Plaag led him to believe that there may be some confusion or dissension among Theatre board members. Mr. Furguele stated that he had reached out to Mr. Ward and told him that he was reluctant to take a position on the matter without knowing the position of the Theatre, and he asked him to solicit that position in writing. He added that his intention was that at the end of the discussion if there was additional information, it would be shared with both the Planning Commission and Town Council, though he had originally pushed to prohibit the reopening of public hearings in an effort to prevent the Planning Commission from relying on information that was not before the Town Council. Mr. Furguele apologized if anyone thought he was out of line in asking for this information. Mr. Ward

clarified that ASU approached the Town, that the Town initiated the text amendment, and that since the Theatre was not a part of the process, he did not believe the request to be inappropriate. Ms. Meade indicated that each member had the right to talk to whomever they wished with respect to legislative decisions such as UDO amendments, and that while there was some tension with the Town's UDO's emphasis on the public hearing process with respect to UDO amendments, such private discussions were neither illegal nor unethical.

Case PL03178-100319: B3 Maximum Height

Mr. Furguele felt that this amendment should be supported, and felt that the Planning Commission discussion was helpful and important, though it displayed tension among Planning Commission members who thought the Town should increase density and those who disagreed and wanted to protect the Town as it was. He added that he could not remember any five story building in Town that had not been greeted with concern from citizens. Mr. Furguele stated that he was open to the idea of the Town looking at ways to identify locations that made sense to build taller buildings with fewer negative impacts. Ms. Mason agreed and added that regulations needed to be put in place pending further evaluation by staff. Mayor Pro-Tem Clawson stated that she supported the text amendment, and added that sometimes things looked differently once they were built. Mr. Ashcraft felt that the proposed height limit was appropriate and asked whether the text could be altered to limit buildings to three stories and 45 feet which would allow buildings to be built on a smaller footprint with less impervious surface, and added that he also had concerns with stormwater management. Mr. Furguele believed that the Town had an incentive with commercial space in a mixed-use property to make sure it was actually commercial. He added that he had heard that property developers were not interested in fixing up commercial space, and that he would hate to see developers try to cut corners by putting in low ceilings for example in an effort to add floors of apartments above them. Mr. Ward noted that the commercial space at The Forum was fully leased and that the first commercial space at The Standard would be occupied after the first of the year with the others in active negotiations. Ms. Ulmer believed height to be a problem, and stated that she had walked into some of the commercial spaces downtown, for example the commercial space under the apartments next to the former Hobnob Cafe, and felt that they were charging too much rent for the space. She wondered if mixed-use zoning might not work in Boone because the properties were being rented out by owners who did not live here. Mr. Furguele agreed that rents were too high for commercial spaces in Town, but believed that commercial districts had to be protected for commercial uses. He added that he believed property owners often felt that they had to get as much for commercial space per square foot as residential square foot. Mr. Furguele agreed that Council may need to rethink this text in the future and that there may be places in the future, such as the back part of the Walmart parking lot that could be rezoned to a different zoning district, say as "B4". He then made a motion to approve the proposed amendment to the Town's zoning ordinance and that it is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because it is consistent with the following: Comprehensive Plan Overall Objective 1.1 Community Appearance and Community Character: Blend the built environment with the natural, scenic, and historic character of a High Country small town. Especially discourage commercial strip development, cluttered signage, and "cheap" apartment buildings; Comprehensive Plan Policy 2.1.2(J): Highway Oriented Commercial Uses shall be clustered along segments of major streets and contain land uses which are mutually compatible and reinforcing in use and design. Businesses shall be encouraged to coordinate their site designs with other nearby businesses. Design factors shall include, at a minimum, shared parking and street access, convenient pedestrian and vehicular movements, and consistent sign standards; Comprehensive Plan Policy 2.3.2(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. Ms. Mason seconded the motion and asked that Mr. Furguele accept a friendly amendment to include Comprehensive Plan Policy 2.1.1 Economic Development in his motion. The amendment was accepted by Mr. Furguele.

VOTE: Aye: All
 Nay: None

Mr. Furguele made a second motion, which was seconded by Mayor Pro-Tem Clawson, to approve the proposed amendment to the Town's zoning ordinance and believes approval is reasonable and in the public interest because buildings taller than three stories have been greeted as unfavorable and are not in keeping with the town's historic nature and not in keeping with the surrounding development.

VOTE: Aye: All

Nay: None

Case PL03173-100319: R3 Minimum Lot Size - UDO Text Amendment

Ms. Shook presented the amendment and noted the change in area from 5,000 to 20,000 in the original proposal to 11,000 square feet in the recommendation by the Planning Commission. Mr. Furguele felt that the discussion on this topic in the minutes from the Planning Commission read like a report of a negotiated settlement, and believed the initial zoning provisions in the UDO of the Town of Boone to allow multi-family development on a 5,000 square foot lot to be mystifying. He was concerned that one Planning Commission member who had a strong opinion of maintaining a small lot size had dominated the discussion, and he was concerned about what could potentially happen with R3 properties of such small size. Ms. Shook noted that the minimum lot size for R1 was 8,000 square feet, with Mr. Furguele expressing view that there was no logic in the guidelines, and he believed that Council should approve the originally suggested minimum lot size. Ms. Meade noted that this change, if approved, would create a number of new legal non-conformities and that the bigger the lot size, the more legal non-conformities this would create. She added that the downside to a tiered system is that it could create a disincentive for owners to do significant repairs and improvements on their property. Ms. Shook believed that a tiered system would not be an issue since an owner would be unable to add additional property to an existing parcel, but that if a property owner wanted to grow based on a non-conforming lot, they could have limitations. Mr. Furguele noted that at this point, he believed the rezoning project to be dead and that this could be the only protection available for existing neighborhoods, even though it was not perfect. Ms. Mason agreed with this statement. Ms. Shook noted that there were currently provisions for non-conforming lots, though they would have to meet all parameters before developing. Mr. Furguele felt that UDO text should be amended to include triplexes in the R2 zoning district, with Ms. Shook noting that there were Planning Commission members who were concerned with sprawl and density, which is how they came up with the 11,000 square foot limit. Mr. Furguele believed the Planning Commission's concept to be in the abstract, and stated that Council had recently reviewed every piece of property in Town that fit into this category in order to find that in most instances the R3 zoning designation was the wrong designation. Mr. Ashcraft stated that he believed a tiered system in abstract made a lot of sense, but was concerned about instances when a property adjoined an R1 zoned property and that he was also concerned about scale. He indicated that he was inclined to protect the R1 and R2 neighborhoods. Ms. Ulmer was concerned with the fact that it was always difficult to make zoning decisions. Mr. Furguele felt that this might be the case partly because property owners often did not research zoning regulations before they purchased property. He then made a motion to approve the original proposal of 20,000 square feet and that the proposed amendment as amended to the Town's zoning ordinance is consistent with the Town's Comprehensive Plan and any other adopted plan(s) of the Town that are applicable because they are consistent with the following: Comprehensive Plan policy 2.3.2(E) Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the transit system; the availability of public services and facilities; and compatibility with adjacent land uses; 2.3.3(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; 2.3.3(H) The overall housing unit density for proposed infill residential development should be compatible with the average density of existing areas. Ms. Mason seconded the motion.

VOTE: Aye: All
Nay: None

Mr. Furguele made a second motion, which was seconded by Mayor Pro-Tem Clawson that approval is reasonable and in the public interest because one of the main duties of Council is to support neighborhoods and because neighborhoods had already been threatened due to the lack of the use of zoning.

VOTE: Aye: All
Nay: None

Case PL03171-100319:R1-S Small Home Residential Zoning District - UDO Text Amendment

Ms. Mason stated that there had been discussion in the past about one story structures geared toward the retirement community which were limited to 800 square feet. Ms. Shook indicated that this level had not been presented to the Planning Commission as an option as of yet. Ms. Mason asked if it would be possible to do if a person wanted to build a home with a smaller footprint. Mr. Furguele stated that he was reluctant to make that modification to the text without the Planning Commission reviewing it, and he did not want to delay the

amendment. Ms. Mason agreed and hoped that the future Council would be open to this option. Mr. Furgiuele added that another option was to expand the senior district recently created in order to create additional housing options for seniors. Ms. Shook noted that the Planning Commission had discussed implementing solar setbacks as practiced in other towns, but that Boone did not have the mechanisms in place currently to do that. Discussion ensued regarding whether or not garage square footage counted toward the total square footage living space limit, with Ms. Meade suggesting that if this counted toward the total square footage, this may drive plans for people to build more stand along garages. Ms. Shook was of the opinion that people with smaller homes may not have a need for garages, with Mr. Furgiuele agreeing. Mr. Furgiuele made a motion to approve the amendment to the Town's zoning ordinance and that it is consistent with the Town's Comprehensive Plan and any other Plan's of the Town that are applicable because it is consistent with the following: Comprehensive Plan Overall Objective 1.1 Neighborhoods: Ensure the livability of neighborhoods, especially through land use and traffic planning; 2.1.1(A) The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy; 2.3.2(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; 2.3.3(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; 2.3.3(D) Innovative and flexible land planning and development practices shall be encouraged to create livable developments which better safeguard land, water, energy and historic resources; 2.3.3(F) The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development; 2.1.1(K) Boone shall identify and provide services consistent with the needs of the area's growing retiree population. Mayor Pro-Tem Clawson seconded the motion. Mr. Furgiuele clarified that his motion was to include the amendments suggested by staff. Mayor Pro-Tem Clawson accepted this clarification.

VOTE: Aye: All
 Nay: None

Mr. Furgiuele made a second motion to approve the amendment to the Town's zoning ordinance and that approval is reasonable and in the public interest because Council has known for a long time that there is an identified need for small, detached, single-family homes, and that the Affordable Housing Task Force met a long time ago with agencies including the local hospital and ASU and that people who worked in those businesses wanted homes that were more affordable and smaller. Mayor Pro-Tem Clawson seconded the motion.

VOTE: Aye: All
 Nay: None

Upon a motion by Mr. Ashcraft, seconded by Mr. Furgiuele, Council voted to amend the agenda to hear item eight, Waiver of Bidding Requirements for Self Contained Breathing Apparatus next.

VOTE: Aye: All
 Nay: None

Mayor Brantz declared a break at 7:54 p.m. Council reconvened at 8:05 p.m.

WAIVER OF BIDDING REQUIREMENTS FOR SELF CONTAINED BREATHING APPARATUS

Upon a motion by Ms. Mason, seconded by Mayor Pro-Tem Clawson, Council voted to approve the request to waive bidding requirements in order to utilize terms and pricing of a contract between American Blaze Masters and the Commonwealth of Pennsylvania issued on June 1, 2019.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Council Member
SECONDER:	Sam Furgiuele, Council Member
AYES:	Mason, Clawson, Furgiuele, Ulmer, Ashcraft

ADOPTION OF PROPOSED NEW CHAPTER 89 ("MISCELLANEOUS OFFENSES")

Ms. Meade stated that she had researched the code and did not find any other areas discussing firearms on Town property as discussed at Council's meeting last month. She noted that as stated in section 89.07, a property has to be posted to give proper warning, and she felt that it was within administration's proper levels of discretion to allow them to do so. Mr. Furgiuele presented some minor typographical errors to be amended before making a motion to approve the text as amended. Ms. Meade noted that she would strike references made to refuse as requested by Mr. Ashcraft unless she found that they were necessary. Ms. Mason seconded the motion.

ORDINANCE # _____

**AN ORDINANCE TO ENACT CHAPTER 89 ("Miscellaneous Offenses"),
CREATE TITLE VIII, AND DELETE TITLE XIII
OF THE TOWN OF BOONE CODE OF ORDINANCES**

WHEREAS, the Boone Town Council finds it appropriate and in the public interest to re-organize and update certain chapters of the Town of Boone's Code of Ordinances ("Code of Ordinances") related to public nuisances, miscellaneous offenses, and various other town regulations; and

WHEREAS, the Boone Town Council is authorized to enact this Ordinance pursuant to, *inter alia*, its police powers as provided at G.S. §§ 160A-174; 18B-300(c), 14-409.40(f); 14-415.13; and 160A-189;

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

SECTION 1. Title XIII "GENERAL OFFENSES AGAINST TOWN REGULATIONS" and Chapter 130 ("General Offenses Against Town Regulations") are hereby repealed, with the provisions of said former Chapter 130 to be incorporated into a new Chapter 89.

SECTION 2. There shall be a new Title of the Code of Ordinances entitled "Title VIII PUBLIC NUISANCES; OFFENSES."

SECTION 3. There shall be a new Chapter 89 of the Code of Ordinances, entitled "Miscellaneous Offenses," which shall be included in Title VIII of the Code of Ordinances and which is hereby enacted as follows:

CHAPTER 89: MISCELLANEOUS OFFENSES

Cleanliness of premises; Littering; Solid Waste

- 89.01 Definitions
- 89.02 Cleanliness of premises required
- 89.03 Littering prohibited
- 89.04 Transportation of solid waste
- 89.05 Burning, dumping or burying solid wastes prohibited

Weapons

- 89.06 Discharge of firearms and air rifles prohibited
- 89.07 Possession of firearms or air rifles prohibited on town-owned property

Alcoholic Beverages Regulations

- 89.08 Definitions
- 89.09 Display of alcoholic beverages prohibited
- 89.10 Public consumption prohibited
- 89.11 Possession of open container prohibited
- 89.12 Exceptions
- 89.99 Penalty

CLEANLINESS OF PREMISES; LITTERING; SOLID WASTE**§ 89.01 DEFINITIONS.**

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

LITTER. All discarded human-made refuse, including, but not limited to, garbage, trash, junk, and other solid wastes.

PREMISES. The unenclosed areas of a parcel of property, including yards, driveways, sidewalks, alleys, rights-of-way, grass strips and curbs up to the edge of the pavement of any public street.

REFUSE. Garbage, trash, and any other solid wastes ~~generated by the activities taking place on a property.~~

PUBLIC PROPERTY. Any town property, including public buildings and the grounds appurtenant thereto, municipal parking lots, public parks, playgrounds, recreational areas, and athletic fields, and any public street, sidewalk, alley, greenway or other public place.

SOLID WASTES. Wastes that are non-gaseous and non-liquid (except that, liquid wastes resulting from the processing of food are deemed solid wastes for the purposes of this chapter.)

§ 89.02 CLEANLINESS OF PREMISES REQUIRED.

- (A) It shall be unlawful for any owner, occupant, or person in control of any property within the town to permit to remain on such property any empty bottles, empty cans, junk, household appliances, furniture, trash, filth, debris, dead animals, garbage, trash, rubbish or other refuse or solid waste of any kind whatsoever, unless such solid wastes are stored in containers or maintained for collection in accordance with the requirements of Chapter 91 of this Code. It shall be the duty of any owner, occupant, and person in control of any property within the town to keep the premises of such property in a clean, healthy, wholesome and sanitary condition at all times.
- (B) It shall be unlawful for any owner, occupant, or person in control of any property within the town to fail to store ~~their~~ refuse in containers as specified in Chapter 91 of this code so as to eliminate wind-driven debris and unsightly litter in and about their premises or establishments, or fail to immediately clean up any spillage and overflow as it occurs.
- (C) It shall be unlawful for any construction and/or demolition contractor to fail to provide on-site refuse receptacles, bulk containers or detachable containers for loose debris, paper, building material waste, scrap building material and other trash produced by those working on the site. All material shall be containerized by the end of each day and the site shall be kept in a reasonably clean and litter-free condition. The number of refuse receptacles, bulk containers or detachable containers shall be determined by the size of the job. Dirt, mud, construction materials or other debris deposited upon any public property or the ~~or~~ private property of another as a result of ~~the~~ construction or demolition shall be immediately removed by the contractor. Construction sites shall be kept clean and orderly at all times.

§ 89.03 LITTERING PROHIBITED.

- (A) It shall be unlawful for any person to ~~cast, place, sweep or deposit anywhere within the town~~ place or deposit any refuse on any public property or on the property of another, without authorization to do so, or to place refuse in such a manner that it may be carried or deposited by the elements upon any ~~street, sidewalk, alley, sewer, parkway or other public place, property or onto upon any premises of another~~ the property of another, within the town.
- (B) It shall be unlawful for any owner or keeper of any dog or other animal to allow fecal matter excreted by or from said animal to be placed or deposited upon any ~~street, sidewalk, greenway, or other~~ public property ~~within the town~~ or upon the ~~private~~ property of another without authorization to do so. It shall also be unlawful to allow such matters to be placed or deposited in such a manner that it may be carried or deposited by the elements upon any ~~street, sidewalk, greenway, or public property other public property or onto the upon the private~~ property of another.

§ 89.04 TRANSPORTATION OF SOLID WASTE WITHIN TOWN.

It shall be unlawful for any person to transport or cause to be transported within the town any solid wastes ~~on the~~

~~public streets of the town~~ unless the solid wastes are so secured that no solid wastes escape from the transporting vehicle. In addition, any garbage so transported shall be carried in closed containers that prevent the escape of noxious odors or liquids.

§ 89.05 BURNING, DUMPING OR BURYING SOLID WASTES PROHIBITED.

- (A) It shall be unlawful for any person to burn or cause to be burned any ~~garbage, refuse, or other solid waste~~refuse.
- (B) It shall be unlawful for any person to dump upon any ~~land public property or property of another~~ within the town any ~~garbage, refuse, trash~~, dead animals, decaying vegetable or animal matter or other solid wastes or offensive materials.
- (C) It shall be unlawful for any person to bury or cause to be buried any ~~garbage, refuse, or other solid waste~~refuse.

WEAPONS

§ 89.06 DISCHARGE OF FIREARMS AND AIR RIFLES PROHIBITED.

- (A) Subject to division (B) below, no person may discharge any firearm within the town.
- (B) Division (A) above shall not apply to ~~private~~ persons acting in justifiable self-defense or pursuant to the lawful directions of a law-enforcement officer, nor to law-enforcement officers acting in a lawful performance of their duties. Division (A) above shall not apply to the discharge of firearms within fully enclosed and indoor shooting ranges, constructed and operating in compliance with the State Building Code, the town's Uniform Development Ordinance, the federal Occupational Health and Safety Act, as amended, and its regulations, the National Fire Protection Association Standards and State Fire Code, and other laws and regulations as may be established or exist which dictate the construction and operational standards which an indoor shooting range must meet. No indoor shooting range may exist within the town unless ~~its~~ the owner of the indoor shooting range (hereinafter, "proprietor") has submitted to the Chief of Police ~~of the town~~ operating rules concerning employee and invitee or licensee (patron) use of the indoor shooting range, and the Chief of Police has, in writing, issued an opinion that the rules adequately protect the safety of the public and those rules are fully implemented and enforced.
- (C) No person may discharge or shoot within the town any air rifle, air pistol, B-B gun or similar weapon (hereinafter, collectively "air rifle") within 100 yards of any building or house or gathering of people, except in a fully enclosed and indoor facility, constructed and operating in compliance with the State Building Code, the town's Uniform Development Ordinance, the federal Occupational Health and Safety Act, as amended, and its regulations, the National Fire Protection Association Standards and State Fire Code, and other laws and regulations as may be established or exist which dictate the construction and operational standards which the indoor facilities must meet. No facility may exist within the town unless its proprietor has submitted to the Chief of Police ~~of the town~~ operating rules concerning employee and invitee or licensee (patron) use of the indoor shooting range, the Chief of Police has, in writing, issued an opinion that the rules adequately protect the safety of the public, and those rules are fully implemented and enforced.
- (D) No indoor shooting range or facility for the discharge of any air rifle may operate within the town where the proprietor is not also the owner of the real property upon which it is situated unless:
 - (1) The proprietor, ~~in the case of a limited liability company, corporation or other legal entity other than a natural person,~~ designates a person who is a resident of the county as a person who has full authority to act on behalf of the proprietor in responding to complaints concerning the operation of the shooting range or facility, and ~~that~~ the person's name and contact information is posted at the shooting range or facility in plain view of the public so that it may be read without a person having to enter the shooting range or facility in order to do so; and
 - (2) The proprietor obtains and maintains liability insurance covering injuries and property damage to persons using the shooting range or facility in an amount no less than \$2,000,000 per injury and claim and provides proof of the insurance to the town upon request.

— Authority: G.S. 160A-189

§ 89.07 POSSESSION OF FIREARMS OR AIR RIFLES PROHIBITED ON TOWN-OWNED PROPERTIES

- (A) Except as provided in the following divisions of this section, no person may possess a firearm or air rifle in any town-owned building or on the grounds or parking areas of any such building.
- (B) The Town Manager or designee shall post all town-owned buildings and the grounds and parking areas of such buildings with signage notifying persons that concealed handguns are prohibited in those buildings and areas. Only where such postings have been made shall the foregoing prohibition of subdivision (A) on possession of firearms be effective with respect to a person carrying a concealed handgun pursuant to a valid concealed-carry permit.
- (C) Division (A) above shall not apply to law enforcement officers acting in lawful performance of their duties, to any person specifically authorized by the Town Manager to possess a firearm in town-owned buildings or on the grounds or parking areas of such buildings, or to private persons acting in justifiable self-defense or pursuant to the lawful directions of a law-enforcement officer.
- (D) Nothing in this section shall be deemed to prohibit a person from storing a firearm within a motor vehicle while the vehicle is on the grounds or parking area of a town building.

Authority: G.S. 14-409.40(f); G.S. 14-415.13; G.S. 160A-189.

With respect to prohibitions on firearm possession in town parks and other recreational facilities, see Town Code §§ 100.01 & 100.03

ALCOHOLIC BEVERAGES REGULATIONS

§ 89.08 DEFINITIONS.

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

MALT BEVERAGE. Beer, lager, malt liquor, ale, porter and any other brewed or fermented beverage containing at least 0.5%, and not more than 15% alcohol by volume. Any **MALT BEVERAGE** containing more than 6% alcohol by volume shall bear a label clearly indicating the alcohol content of the **MALT BEVERAGE**.

(G.S. § 18B-101(9))

OPEN CONTAINER. A container whose seal has been broken or a container other than the manufacturer's unopened original container.

~~—PUBLIC STREET. Any highway, road, street, avenue, boulevard, alley, bridge or other way within and/or under the control of the town and open to public use, including the sidewalks of any street.~~

UNFORTIFIED WINE. Any wine of 16% or less alcohol by volume made by fermentation from grapes, fruits, berries, rice or honey; or by the addition of pure cane, beet or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice or honey that is contained in the base wine and produced in accordance with the regulations of the United States.

(G.S. § 18B-101(15))

Statutory reference:

Local ordinance, authority, see G.S. § 18B-300(c)

§ 89.09 DISPLAY OF ALCOHOLIC BEVERAGES PROHIBITED.

No person shall display any alcoholic beverages on ~~any facility, right-of-way, street, public vehicular area or property owned or regulated by the town;~~ any public property within the town unless the alcoholic beverage is contained in its original factory-sealed container.

§ 89.10 PUBLIC CONSUMPTION PROHIBITED.

It shall be unlawful for any person who is not an occupant of a motor vehicle to consume malt beverages and/or unfortified wine on ~~the public streets and sidewalks~~ public property within the town.

- ~~(A) Furthermore, it shall be unlawful for any person to consume malt beverages and/or unfortified wine on any property, whether located inside or outside the corporate limits, owned, occupied, leased as lessee or controlled by the town, including, but not limited to, public buildings and the grounds appurtenant thereto, municipal parking lots, public parks, playgrounds, recreational areas, tennis courts and other athletic fields.~~

§ 89.11 POSSESSION OF OPEN CONTAINERS PROHIBITED.

It shall be unlawful for any person who is not an occupant of a motor vehicle to possess any open container of malt beverage and/or unfortified wine on ~~the public streets and sidewalks~~ public property within the town.

~~(A) Furthermore, it shall be unlawful for any person to possess any open container of malt beverage and/or unfortified wine on any property, whether located inside or outside the corporate limits, owned, occupied, leased as lessee or controlled by the town, including, but not limited to, public parks, playgrounds, recreational areas, tennis courts and other athletic fields.~~

§ 89.12 EXCEMPTIONS.

(A) Possession and consumption of malt beverages and/or unfortified wine shall be permitted at the Jones House Community Center, Daniel Boone Gardens, Daniel Boone Park and at Town Council-approved special events ~~approved by Town Council~~; provided, however:

(1) Appropriate permits must be obtained as required by law for the possession and consumption of alcoholic beverages;

(2) The sponsor of the event or gathering where possession and consumption of malt beverages and/or unfortified wine is to occur must obtain appropriate liability insurance to protect against personal injury and property damage; and

(3) Approval must be obtained in advance from the Town Manager, and such said approval to may be conditioned upon appropriate safety measures.

(B) ~~N~~However, nothing herein shall be interpreted to require the town to apply for ~~the needed~~ required permits or insurance coverage unless the town itself is the sponsor of the event.

§ 89.99 PENALTY.

(A) Except as otherwise provided below, a violation of any ~~of the provisions~~ of this chapter shall subject the offender to a civil penalty in the amount of \$50.00 and shall constitute ~~a Class 3 misdemeanor or an infraction~~ and be subject to a fine of not more than \$50; or imprisonment for not more than 30 days, ~~or both as provided in G.S. §§ 14-4 and 160A-175.~~

~~(A)(B)~~ Discharge of a firearm in violation of §89.06(A) of this chapter shall constitute a Class 3 misdemeanor and be subject to a fine of not more than \$500 or imprisonment for not more than 30 days, or both.

~~(B)(C)~~ The town may seek to enforce a violation of this chapter through any appropriate equitable action.

~~(C)(D)~~ Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.

~~(D)(E)~~ A second or subsequent violation of the same provision of this chapter in the same 12-month period shall result in assessment of a civil penalty in the amount of \$100.00 for the second violation and \$250.00 for the third and any subsequent violation.

SECTION 4. This Ordinance shall be effective on the date it is adopted.

Adopted this _____ th day of _____, _____.

Rennie Brantz, Mayor

ATTEST: _____
Town Clerk

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Sam Furgiuele, Council Member
SECONDER:	Lynne Mason, Council Member
AYES:	Mason, Clawson, Furgiuele, Ulmer, Ashcraft

CONSIDERATION OF REVISED CHAPTERS 81 AND 91 AND REORGANIZATION OF TOWN CODE

Ms. Meade presented changes made to reorganize several Titles of the Town Code, including adoption of a new Chapter 81(Abandoned and Nuisance Vehicles) and revised Chapter 91 (Solid Waste Collection). In addition, Chapter 111 (Public Enterprises) would be deleted, as Chapter 96 now contained the same provisions. Mr. Ashcraft asked whether when solid waste was generated whether the Town was charged a fee for dropping off white goods at the landfill, which Mr. Miller confirmed. Mr. Ashcraft wondered whether the Town should pass along this fee to citizens, with Mr. Miller answering that costs were absorbed. Mr. Ashcraft stated that while he was not proposing changing the process, he did not want to limit charging a fee for additional special pick-ups Ms. Meade suggested adding a provision to the text that the fees would be as provided for in the currently adopted fee schedule. Discussion turned to Section 81, with Mr. Miller suggesting that a release may be needed from property owners to allow Public Works employees to enter onto property in order to assist in the towing of abandoned or junk vehicles. Ms. Meade felt that if there was not consent on the part of either property owner, the Town would not move forward with the removal of the vehicle. Mr. Ashcraft made a motion, seconded by Mayor Pro-Tem Clawson, to approve the text as amended.

ORDINANCE # _____

**AN ORDINANCE TO REVISE CHAPTERS 81 AND 91 AND TITLES VIII, IX, XI AND XIII
OF THE TOWN OF BOONE CODE OF ORDINANCES**

WHEREAS, the Boone Town Council finds that it is appropriate and in the public interest to re-organize and update various chapters of the Town of Boone's Code of Ordinances ("Code of Ordinances") related to public nuisances, miscellaneous offenses, and various other town regulations;

WHEREAS, the Boone Town Council is authorized to enact this Ordinance pursuant to, *inter alia*, its police powers as provided at G.S. § 160A-174 and G.S. §§ 160A-303, 160A-303.2;

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

SECTION 1. Chapter 91 ("Community Improvement") of the Boone Code of Ordinances is hereby repealed and in its place are adopted the following chapters as further provided herein: Chapter 91 ("Storage and Collection of Solid Waste and Recyclables"), which shall be part of Title IX ("GENERAL REGULATIONS"); Chapter 80 ("Public Nuisances"), which shall be part of a Title VIII ("PUBLIC NUISANCES; OFFENSES"), and Chapter 81 ("Abandoned, Junked and Nuisance Vehicles") which shall also be part of Title VIII.

SECTION 2. The following is hereby adopted as Chapter 91 of Title IX of the Code of Ordinances:

CHAPTER 91: STORAGE AND COLLECTION OF SOLID WASTES AND RECYCLABLES

Section

- 91.01 Definitions
- 91.02 Property owners to provide containers
- 91.03 Size, number and type of solid waste and recycling containers required for multifamily and commercial properties
- 91.04 Properties served by cubic yard containers and recycling containers
- 91.05 Properties not served by cubic yard containers
- 91.06 Special collections
- 91.07 Authority of Administrator
- 91.08 Interference with ~~receptacles or~~ stored solid wastes or recyclables
- 91.09 Payment for service
- 91.99 Penalties

§ 91.01 DEFINITIONS.

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

ADMINISTRATOR. The person or persons designated by the Town Manager to administer and/or enforce this chapter.

BUSINESS TRASH. Any accumulation of dust, paper and cardboard, excelsior, rags or accumulations other than garbage or household trash incident to the ordinary conduct of stores, offices and similar businesses.

CUBIC YARD CONTAINER. Receptacle a minimum of four cubic yards in size which is water-tight with a close-fitting lid used for the temporary storage of solid waste that is capable of being serviced by an automatic equipped collection vehicle.

GARBAGE. Waste consisting of animal or vegetable foodstuffs resulting from the handling, preparation, cooking or consumption of food.

HOUSEHOLD TRASH. Any waste accumulation of paper, sweepings, dust, rags, bottles, cans or other matter of any kind, other than garbage, which is usually attendant to housekeeping.

INDUSTRIAL WASTE. All waste, including solids, semi-solids, sludges and liquids, created by factories, processing plants or other manufacturing enterprises.

MULTI-FAMILY DWELLING. A dwelling or combination of dwellings on a single lot consisting of three or more dwelling units.

PREMISES. The areas of a property not enclosed within a building, including yards, sidewalks, alleys, rights-of-way, grass strips and curbs up to the edge of the pavement of any public street.

RECYCLABLES. Include but are not limited to the following items that are empty and contain no food debris: clear, green and brown container glass, aluminum foil, aluminum cans, empty aerosol cans, cardboard, paper milk and juice cartons, steel food cans, #1 through #7 plastic containers, mixed paper, office paper, food boxes, newsprint with inserts, magazines, catalogs, phone books, junk mail, office ledger and pasteboard.

RECYCLING CONTAINER. A receptacle which is equipped with a close-fitting lid used for the temporary storage of recyclables between scheduled pickups capable of being serviced by hand or by the town's contracted hauler's automatic equipped collection vehicle.

REFUSE. Solid waste accumulations consisting of garbage, household trash, yard trash and/or business trash, as defined in this section.

SOLID WASTE CONTAINER. A water-tight receptacle which is equipped with a close-fitting lid used for the temporary storage of solid waste that is capable of being serviced by hand or by an automatic equipped collection vehicle.

SOLID WASTES. Wastes that are non-gaseous and non-liquid (except that liquid wastes resulting from the processing of food are deemed solid wastes for the purposes of this chapter.)

WASTES. All useless, unwanted or discarded materials resulting from domestic, industrial, commercial or community activities.

YARD TRASH. Waste accumulation of lawn, grass or shrubbery cuttings or clippings, bushes, limbs and dry leaf rakings free of dirt, rocks, large branches and bulky or non-combustible material.

§ 91.02 PROPERTY OWNERS TO PROVIDE CONTAINERS.

(A) The owner of every property within the town shall be responsible for providing adequate solid waste containers in accordance with this chapter to store the solid wastes generated by activities taking place on that property between scheduled pickups.

(B) The owner of every property with one or more multi-family dwellings shall provide containers in accordance with this section to store recyclables generated by activities taking place on the property between scheduled pickups.

§ 91.03 SIZE, NUMBER AND TYPE OF SOLID WASTE AND RECYCLING CONTAINERS REQUIRED FOR MULTIFAMILY AND COMMERCIAL PROPERTIES.

(A) Subject to the provisions of this section and after consultation with the owner of the property concerned, the Administrator shall determine the size, number and type of solid waste and recycling containers that must be provided for multifamily and commercial properties within the town. In making this determination, the Administrator shall consider the type of activities on the property and the amount of solid waste likely to be generated by those activities, as well as the welfare of the occupants and neighbors of those property and the town's need to facilitate collection and minimize the costs of this service. A list of container sizes and types can be obtained at the Public Works office.

(B) Unless the Administrator determines that the topography of the premises ~~requires alternative measures~~~~prevents placement~~, the owner(s) of a property with one or more multi-family dwelling shall provide one or more cubic yard containers so that the following criteria relating to capacity are satisfied:

(1) One-eighth cubic yards of storage capacity is provided per bedroom; provided that the minimum sized cubic yard container shall be four cubic yards; and

(2) If more than one cubic yard container is required, the owner shall provide the smallest number of cubic yard containers capable of satisfying the requirements stated in division (B)(1) of this section.

(C) Unless the Administrator determines that the topography of the premises ~~prevents placement~~~~requires alternative measures~~, the owner of a property with one or more multi-family dwellings shall provide recycling containers so that the following criteria relating to capacity are satisfied. Each recycling container area shall accommodate the placement of an adequate number of 96-gallon recycling containers ~~to accommodate participation~~. The type and number of recyclable materials may change as the town's Public Works Department's recycling program changes.

(D) Unless the Administrator determines that the topography of the premises ~~requires alternative measures~~~~prevents placement~~, when any non-residential premises requires more than four of the containers described in division (F), one or more cubic yard containers of an appropriate size will be required.

(E) When cubic yard containers are required by the Administrator, only cubic yard containers compatible with private collection equipment currently in use will be approved.

(F) The owners of all premises not required to be served by cubic yard containers shall provide at least one 32-gallon or larger container made of galvanized metal, plastic, rubber or other material resistant to rust, corrosion or rapid deterioration. Each required container shall be water-tight and provided with handles and a tight-fitting cover. Owners may rent or lease a 96-gallon roll-out waste container from the town's contracted hauler that is compatible with the hauler's lift equipment.

§ 91.04 PROPERTIES SERVED BY CUBIC YARD CONTAINERS AND RECYCLING CONTAINERS.

With respect to properties served by cubic yard containers:

(A) The location of cubic yard containers shall be determined by the Administrator after consultation with the owner of the property concerned. In making this determination, the Administrator shall consider the needs of the occupants for safe and convenient access to the location for deposit and the private hauler's ease of access to the location for collection. ~~In addition, all containers shall be placed in locations which comply with the requirements of the town's Unified Development Ordinance ("UDO");~~

(B) Solid waste and recycling materials shall be collected from the approved location on a schedule determined by the Administrator;

(C) Screening shall be provided around containers. ~~in accordance with the solid waste and recycling enclosure detail. In addition, all screening of solid waste and recycling containers must comply with the screening requirements of the town's Details and Specifications Manual and any requirements of the UDO.~~

(D) All solid wastes shall be stored in cubic yard containers pending collection. ~~Solid wastes not placed in cubic yard containers will not be collected, except in accordance with § 91.039;~~

(E) All cubic yard containers shall be cleaned periodically to minimize offensive odors and the tops or openings to all cubic yard containers shall be kept securely fastened at all times pending collection;

(F) All enclosures and screens shall be well maintained and replaced as needed;

(G) Recycling containers shall be located in the same area as the ~~For each solid waste container site located on premises that also requires recycling containers, there shall be a recycling container area at the same location where reasonably possible, in accordance with the solid waste and recycling enclosure detail; and~~

(H) If locating the recycling area at the solid waste container site proves impractical for new construction or in connection with the renovation or expansion of an existing multi-family dwelling, a recycling area shall be located in an accessible area on the ~~premises property~~ as determined by the Administrator; ~~and;~~

(I) Screening, enclosures, container types, placement of containers and the like shall comply with all applicable specifications established by the town's Public Works Department and with any requirements of the town's Unified Development Ordinance ("UDO").

§ 91.05 PROPERTIES NOT SERVED BY CUBIC YARD CONTAINERS.

With respect to properties not served by cubic yard containers:

(A) Refuse shall be stored on ~~any the~~ premises of a property pending collection only in solid waste containers meeting the requirements of this chapter.

(B) Garbage, animal wastes (such as pet feces and cage and litter box wastes) and human wastes (such as diapers) shall be stored in watertight bags or containers before being placed in solid waste containers for collection.

(C) Except as otherwise provided in this section, ~~solid wastes-solid waste containers~~ may not be stored between scheduled pickups between a street and the side of a dwelling facing the street unless the solid waste ~~containers~~ are stored within (1) a completely enclosed structure such as a ~~house~~, garage or shed, or (2) an opaque enclosure specifically designed for storing solid waste containers that is enclosed on all four sides and on the top so as to prevent entry of animals, and that is located outside of the street right-of-way unless an appropriate encroachment agreement has been obtained for the enclosure.

(D) Solid wastes shall be placed adjacent to the street for collection on the scheduled collection day or after dark on the preceding day. After collection, all solid waste containers and all uncollected solid wastes shall be removed to a storage location that complies with division (C) above by 9:00 a.m. on the day following the collection day.

(E) If the Administrator determines that because of ~~the physical infirmity of the occupant of any premises~~, the occupant of a property cannot without ~~severe undue~~ hardship transport the solid wastes from the storage location required by division (C) above to the collection point required by division (D) above, the Administrator may authorize the occupant to store solid wastes at a convenient location away from the curb between scheduled pickups or provide on-premises pickup.

(F) Containers ~~other than meeting that do not meet~~ the requirements of this chapter ~~will may~~ be treated as solid wastes and collected as such.

§ 91.06 SPECIAL COLLECTIONS.

(A) Solid wastes generated by single-family and duplex residential customers that are too bulky, heavy or cumbersome to be collected by the town as part of its regular collection service may be collected by the town pursuant to a request made to the Administrator as a ~~"special collection."~~ Special collections will be collected only in accordance with this section and any policies adopted by the Administrator, and may include yard waste (including grass cuttings, hedge clippings, tree ~~debris and tree~~ trimmings, shrubbery and similar items less than 8 inches in diameter and 10 feet in length); containers weighing more than 75 pounds; furniture and household furnishings, white goods, and similar items.

(B) To the extent practical, special collection items must be placed within 10 feet of the curb, may not ~~to~~ impede the public way, and must be clear of overhanging obstructions.

(C) Yard waste ~~must~~ be kept separate from and shall not be mixed with any other type of solid waste for purposes ~~of~~ collection by the town.

(D) No materials such as trees, logs, stumps, shrubbery or underbrush resulting from land being cleared shall be collected by the town. Proper collection and disposal of such material shall be the responsibility of the contractor or builder or, in the event that the contractor or builder fails to remove such material, the responsibility of the owner of the property.

(E) A property owner or occupant who deposits special collection items must call the town's Public Works department within one business day of making the deposit to arrange for a special collection pick-up.

(F) The town reserves the right to refuse any request made pursuant to this section and the failure of the town to provide this service shall not relieve any person of any of the obligations imposed by any provision of this Code.

(G) Each single-family and duplex residential property is entitled to a limited number of free special collection pickups per calendar year ~~as provided~~ pursuant to the current policies of the Public Works Department. Any special collection pickup over that number of free pickups shall be charged to the occupant or property owner at the rates provided on the current schedule of rates and fees of the Department. If an occupant who is not the property owner fails to pay the special collection charges, the charges shall be chargeable to and paid by the property owner.

(H) In the event a property owner or occupant fails to arrange for a special collection as required per division (E), the town may collect the solid wastes and charge the pick-up against the property owner or ~~other~~ occupant as provided at division (G).

§ 91.07 AUTHORITY OF ADMINISTRATOR.

(A) The Administrator shall establish collection routes and schedules and may alter these routes and schedules from time to time. A copy of the current routes and schedules shall be kept on file in the office of the Town Clerk. Notice of any changes in the routes or schedules shall be made known to affected citizens and placed on the Town's website at least ten days before the changes are to become effective.

(B) Whenever this chapter authorizes the Administrator to make a discretionary determination, all persons affected by that determination shall comply with it within 15 calendar days after receiving written notice of the determination and the reasons for it. Thereafter, a failure on the part of any person receiving the notice to comply with the determination shall constitute a violation of this chapter.

§ 91.08 INTERFERENCE WITH ~~RECEPTACLES OR~~ STORED SOLID WASTES ~~OR RECYCLABLES~~.

(A) It shall be unlawful for any person to damage, displace or otherwise interfere with solid waste containers or collect, pick up or cause to be collected or picked up solid wastes or recyclable materials stored or prepared for collection without the consent of the owner, lessee or occupant of the ~~premises~~ ~~property~~ where those containers or solid wastes are located.

(B) From the time of placement at the curb of recyclable items in a container for collection by the town or its designated contractor, the materials shall become and be the property of the town.

(C) Any resident may donate or sell recyclable items to any person, ~~partnership or corporation~~ whether operating for profit or not for profit. ~~However, no~~ ~~The person, partnership or corporation shall not, however may,~~ under any circumstances, pick up ~~the recyclables~~ ~~items stored or prepared for collection~~ from the curbside in the town.

§ 91.09 PAYMENT FOR SERVICE.

~~(A) Subject to divisions (A)(1) and (A)(2) below, Except for special collections as provided at § 91.06 and any charges and fees assessed pursuant to the town's current schedule of charges and fees, there shall be no charge for residential garbage-solid waste and recycling collection for single-family and duplex residential dwellings. -All~~

other customers shall be charged for solid waste and recycling collection pursuant to the current policies and schedule of fees adopted by the town.

- ~~— (1) Multi-family dwelling customers shall be charged for solid waste collection.~~
- ~~— (2) Customers who use cubic yard containers shall be charged for solid waste collection.~~
- ~~— (B) All commercial customers shall be charged for solid waste collection.~~

§ 91.99 PENALTIES

(A) *Penalty for first violation.* A civil penalty of \$50.00 shall be assessed upon any property owner or occupant responsible for a first violation of this chapter within any 12-month period.

(B) *Penalty for second and subsequent violations.* Upon second and subsequent violations of a provision of this chapter by a person within 12 months of that person receiving a notice of violation under this chapter, a civil penalty of \$100 shall be assessed for the violation.

(C) ~~Each day that a violation continues uncorrected shall constitute a separate violation. In addition, the town may refuse to empty any receptacle containing loose household refuse or garbage in violation of any solid waste or recycling container or refuse to pick up any special collection deposit that is in violation of any requirement of this §91.05(B) chapter.~~

(D) Each day that a violation continues uncorrected shall constitute a separate violation.

SECTION 34. The following is hereby adopted as Chapter 81 of Title VIII of the Code of Ordinances:

CHAPTER 81: ABANDONED, JUNKED AND NUISANCE VEHICLES

Section

- 81.01 Definitions
- 81.02 Administration and enforcement
- 81.03 Abandoned vehicles unlawful; removal authorized; abandoned vehicles on private property
- 81.04 Nuisance vehicles unlawful; removal authorized
- 81.05 Removal of abandoned or nuisance vehicles; pre-towing requirements
- 81.06 Exceptions to prior notice requirement
- 81.07 Responsibility for costs of removal
- 81.08 Removal of vehicles; post-towing notice requirements
- 81.09 Right to probable cause hearing before sale or final disposition of vehicle
- 81.10 Redemption of vehicle during proceedings
- 81.11 Sale and disposition of unclaimed vehicle
- 81.12 Conditions on removal of vehicles from private property
- 81.13 Protection against criminal or civil liability
- 81.14 Exceptions
- 81.15 Unlawful removal of impounded vehicle

Authority: G.S. §§ 160A-303, 160A-303.2

§ 81.01 DEFINITIONS.

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

Abandoned vehicle is a vehicle that:

- (1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking;

- (2) ~~—~~ Is left on a public street or highway for longer than seven days or is determined by law enforcement to be a hazard to the motoring public;
- (3) Is left on property owned or operated by the town for longer than 24 hours; or
- (4) Is left on private property without the consent of the owner, occupant or lessee of such property for longer than two hours.

Authorizing official(s) means the police department or the code enforcement officer, respectively, designated to authorize the removal of vehicles under the provisions of this chapter.

Code enforcement officer means the ~~T~~Town employee(s) designated by the Town Manager to enforce the provisions of this chapter.

Junked motor vehicle means a vehicle that:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which it was originally intended to move; or
- (3) ~~Does~~ Does not display a current license plate lawfully upon that vehicle.

Motor vehicle and *vehicle* mean all machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

Nuisance vehicle means a junked motor vehicle on public or private property that is determined and declared by the code enforcement officer to be a health or safety hazard to neighboring residents or businesses or to the public, including but not limited to a vehicle found to ~~be~~:

- (1) ~~Be a~~ A point of concentration of ~~quantities of~~ gasoline, oil or other flammable or explosive materials ~~as evidenced by odor~~;
- (2) ~~One which has~~ Have accessible areas of confinement ~~which that~~ cannot be ~~operated~~ opened from ~~the the~~ inside, such as trunks, hoods, etc.;
- (3) ~~So situated or located that there is a~~ Be in danger of ~~it~~ falling or turning over;
- (4) ~~One which is a~~ Be a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;
- (5) ~~One which has~~ Have exposed sharp parts ~~which are jagged or contain sharp~~ or edges of metal or glass; or
- (6) ~~Any other vehicle~~ Otherwise pose a health and safety hazard as determined specifically declared a health and safety hazard and a public nuisance by the code enforcement officer.

§ 81.024 ADMINISTRATION AND ENFORCEMENT

- (A) The police department and the code enforcement officer(s) shall be responsible for the administration and enforcement of this chapter. The police department shall be responsible for administering the removal and the disposition of vehicles determined to be abandoned on the ~~public~~ streets and highways within the town and on property owned by the town. The code enforcement officer(s) shall be responsible for administering the removal and disposition of abandoned and nuisance ~~motor vehicle~~ vehicles located on private property.
- (B) If the appropriate inspecting officer(s) have probable cause to expect a violation of this chapter, they shall have the right to enter on any premises within the town ~~ordinance-making jurisdiction~~ limits at any reasonable hour in order to determine if any ~~motor vehicle~~ vehicle is in violation of this ~~article~~ chapter.
- (C) The town may, on an annual basis and with prior approval of the Town Council, contract with private tow truck operators to remove, store and dispose of abandoned vehicles and/or nuisance vehicles in compliance with this chapter and applicable state laws.
- (D) Nothing in this chapter shall be construed to limit the legal authority or powers of officers of the town police department or fire department in enforcing other laws or otherwise carrying out their duties.

§ 81.03 ABANDONED VEHICLES UNLAWFUL; REMOVAL AUTHORIZED; ABANDONED VEHICLES ON PRIVATE PROPERTY

- (A) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be an abandoned vehicle.
- (B) Upon investigation, proper authorizing officials of the town may determine that a vehicle is an abandoned vehicle and order the vehicle removed.
- (C) Notwithstanding prior subdivision (B), if an abandoned vehicle is located on private property, it shall be towed only at the direction of the property owner. Town officials will assume no responsibility for the removal of abandoned vehicles from private property.

Cross reference: see Chapter 73 (Towing and Boating) for regulations governing non-consensual towing from private parking lots.

§ 81.04 NUISANCE VEHICLES UNLAWFUL; REMOVAL AUTHORIZED

- (A) It shall be unlawful for the registered owner or person entitled to possession of a ~~motor-vehicle~~ vehicle, or for the owner, lessee or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.
- (B) Upon investigation, the code enforcement officer may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle, and order the vehicle removed.

§ 81.05 REMOVAL OF ABANDONED OR NUISANCE ~~MOTOR-VEHICLE~~ VEHICLES; PRE-TOWING REQUIREMENTS

- (A) Except as set forth in ~~section §~~ 81.06, an abandoned or nuisance vehicle that is to be removed shall be towed at the direction of the town only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee or occupant of the real property upon which the vehicle is located, can be ascertained in the exercise of reasonable diligence, ~~the~~ notice to remove the vehicle within 15 days from receipt of the notice shall be given by certified mail, or by hand delivery by the appropriate authorizing official. The person who mails, or hand delivers, ~~the~~ notice shall retain a written record to show the names and addresses to which the notice was mailed, or delivered, and the date of such mail ~~ed~~, or delivery ~~red~~.
- (B) If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned ~~motor vehicle~~ vehicle, or if notice attempted in accordance with ~~paragraph division (Aa)~~ above is refused by addressee, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the town no sooner than 15 days for a nuisance vehicle, or seven days for an abandoned vehicle, after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time. Notice may be given in such a manner concurrently with notice given in accordance with ~~paragraph (a)~~ subdivision (A) above, even where such notice is properly given and accepted by the addressee.
- (C) With respect to abandoned ~~vehicles and/or~~ nuisance vehicles for which notice is required to be given, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is an abandoned or ~~a~~ nuisance vehicle, such appeal shall be made in writing and delivered to the Town Manager ~~in writing~~ within seven (7) days of the owner's receipt of notice of removal. The appeal shall be heard by the Town Manager within ten (10) days of receipt ~~the making~~ of the appeal. Further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided. In the event the owner or person entitled to possession fails to reasonably pursue the appeal, the appeal shall be deemed abandoned and the vehicle ordered removed.

§ 81.06 EXCEPTIONS TO PRIOR NOTICE REQUIREMENT

The requirement that notice be given prior to the removal of an abandoned or nuisance ~~motor-vehicle~~ vehicle may, as determined by the authorizing official, be omitted in those circumstances where there is special need for prompt action to eliminate a traffic obstructions or ~~to~~ otherwise maintain and protect the public safety and welfare. Such findings shall ~~in all cases~~ be entered by the authorizing official in the appropriate daily records. Circumstances justifying the removal of a vehicles without prior notice include:

- (A) Vehicles abandoned on the streets. For a vehicles left on the public streets and highways, ~~the police~~

~~department~~ a law enforcement officer may determines that immediate removal of such vehicle ~~is~~ may be warranted ~~when they are~~ if the vehicle is:

- a. Obstructing traffic;
 - b. Parked in violation of an ordinance prohibiting or restricting parking;
 - c. Parked in a no stopping or standing zone;
 - d. Parked in a loading zone;
 - e. Parked in a bus zone; or
 - f. Parked in violation of temporary parking restrictions imposed ~~under zoning sections~~ under any state or local law.
- (B) *Other abandoned or nuisance vehicles.* With respect to an abandoned or nuisance vehicles left on ~~private~~ property other than the streets and highways, such a vehicles may be removed without giving prior notice only in ~~those~~ circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances include those in which a vehicle ~~is~~ blocking or obstructing ingress or egress to a businesses ~~and or residences, vehicles parked in such a location or manner as to pose~~ poses a traffic hazard, ~~and vehicles or is~~ causing damage to public property or to the private property of another persons.

§ 81.07 RESPONSIBILITY FOR COSTS OF REMOVAL

- (A) *Owner responsible for removal costs.* Except as provided at ~~subsection~~ division (B), if an abandoned vehicle or nuisance vehicle is removed by or at the direction of the town, the vehicle owner shall pay all reasonable costs incidental to the removal and storage of such vehicle and incidental to locating the owner thereof.
- (B) *Town to pay costs of removing nuisance vehicles in certain cases.* If a vehicle is declared to be a nuisance vehicle, the ~~vehicle~~ property owner may ~~have the option, upon written request and waiver of any claim for damages, to have~~ request that the town remove the vehicle ~~removed from their property~~ at no expense. In order to have ~~the~~ a vehicle removed at no expense to the owner, a signed consent form and vehicle title of ownership must be given to the town and the towing company. If the above-stated requirements are not provided to the town, civil penalties shall be issued for a maximum of 10 days for each day the vehicle remains in violation. If the vehicle remains on the property in excess of 10 days, the violation and civil penalties may be handled as a civil action in small claims court and the vehicle may be ordered to be removed from the property.

§ 81.08 REMOVAL OF VEHICLES; POST-TOWING NOTICE REQUIREMENTS

- (A) Any abandoned or nuisance ~~motor-vehicle~~ vehicle which has been ordered to be removed may, as directed by the town, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the town. In accordance with G.S. § 20-219.11, whenever such a vehicle is removed, the authorizing official shall immediately notify the last known registered owner of the vehicle, such notice shall include the following:
- (1) The description of the removed vehicle;
 - (2) The location where the vehicle is stored;
 - (3) The violation with which the owner is charged, if any;
 - (4) The procedure the owner must follow to redeem the vehicle; ~~and-~~
 - (5) The procedure the owner must follow to request a probable cause hearing on the removal.
- (B) If the vehicle has a North Carolina registration plate or registration, notice shall be given to the owner within 24 hours; if the vehicle is not registered in this state, notice shall be given to the owner within 72 hours from the removal of the vehicle. This notice shall, if feasible, be given by telephone. Whether or not the owner is reached by telephone, notice shall be mailed to his last known address unless he or his agent waives this notice in writing.
- (C) Whenever an abandoned or nuisance ~~motor-vehicle~~ vehicle is removed, and such vehicle has no valid

registration or registration plates, the authorizing official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him or her of the information set forth in ~~subsections subdivisions~~ (Aa)(1)—(Aa)(5) of this ~~section~~ section.

§ 81.09 RIGHT TO PROBABLE CAUSE HEARING BEFORE SALE OR FINAL DISPOSITION OF THE VEHICLE

- (A) After the removal of an abandoned vehicle or nuisance ~~motor-vehicle~~ vehicle, the owner or any person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle as provided at G.S. § 20-219.11. A request for hearing must be filed in writing with the county magistrate designated by the chief district court judge to receive such hearing requests. The magistrate will set the hearing within 72 hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. § 20-219.11.
- (B) The only issue at this hearing is whether or not probable cause existed for the towing. If the magistrate finds that probable cause did exist, the towor's lien continues. If the magistrate finds that probable cause did not exist, the towor's lien is extinguished.
- (C) Any aggrieved party may appeal the magistrate's decision to district court.
- (D) The town shall ~~provide compensation to the towor if the~~ pay the towing and storage charges if the court's final decision is that no probable cause existed for the tow.

§ 81.10 REDEMPTION OF VEHICLE DURING PROCEEDINGS

Unless such vehicle is being detained by police as evidence, in accordance with G.S. § 20-219.12, the vehicle owner may obtain possession of a removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed vehicle.

§ 81.11 SALE AND DISPOSITION OF UNCLAIMED VEHICLE

- (A) *Consent of owner.* With the consent of the registered owner, the town or tow truck operator may dispose of any vehicle without holding it for any prescribed period of time.
- (B) *Sale of vehicle.* An abandoned or nuisance ~~motor-vehicle~~ vehicle shall be held for a period of at least 30 days, during which time the owner may claim it by exhibiting proof of ownership to the town or towing business having custody of the vehicle and by paying the costs incidental to its towing and storage. After being held for 30 days, a ~~motor-vehicle~~ vehicle may, ~~after being held for 30 days,~~ be sold in accordance with the provisions of G.S. §§ 44A-4, ~~G.S.~~ 44A-5, and ~~G.S.~~ 44A-6, provided that, if the town is responsible for collecting towing or removal fees, no hearing in addition to the probable cause hearing described in ~~section § 34-214~~ § 81.09 shall be required. If no one purchases the vehicle at the sale, and if the value of the vehicle is less than the amount of the lien, the town may destroy the vehicle.

§ 81.12 CONDITIONS ON REMOVAL OF VEHICLES FROM PRIVATE PROPERTY.

As a general policy, the town will not remove a vehicle from private property if the owner, occupant or lessee of such property could have the vehicle removed under applicable ~~state law procedures~~ law. In no case will a vehicle be removed by the town from private property without a written request of the owner, occupant or lessee, except in those cases where a vehicle is a nuisance ~~motor-vehicle~~ vehicle which has been ordered removed by the code enforcement officer. The town may require any person requesting the removal of an abandoned or nuisance ~~motor-vehicle~~ vehicle from private property to indemnify the town against any loss, expense or liability incurred because of its removal, storage or sale.

§ 81.13 PROTECTION AGAINST CRIMINAL OR CIVIL LIABILITY.

No person shall be held to answer in a civil or criminal action to any owner or other person legally entitled to

the possession of an abandoned or nuisance ~~motor-vehicle~~ vehicle for disposing of such vehicle as provided in this chapter.

§ 81.14 EXCEPTIONS.

Nothing in this chapter shall apply to ~~any~~ vehicle:

- (A) Which is located in a bona fide automobile graveyard or junkyard, as defined in G.S. § 136-143, in accordance with the Junkyard Control Act, G.S. § 136-141 et seq.;
- (B) Which is in an enclosed accessory building;
- (C) Which is on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise; or
- (D) Which is an appropriate storage place or depository maintained in a lawful place and manner ~~by the town~~.

§ 81.15 UNLAWFUL REMOVAL OF IMPOUNDED VEHICLE.

It shall be unlawful for any person to remove or attempt to remove from any storage facility ~~designated by the town~~ any vehicle which has been impounded pursuant to the provisions of this ~~article~~ chapter unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid. ~~As per G.S. § 14-4(a),~~ any person who violates this section shall be guilty of a Class 3 misdemeanor and subject to a fine of up to \$500 for each violation.

SECTION 45: Chapter 34 of Title III is hereby deleted in its entirety and reserved for future use.

SECTION 5: Chapter 111 of Title XI is hereby deleted in its entirety and reserved for future use.

SECTION 66: The following chapters of the Town Code are hereby re-numbered and re-organized as follows: Chapter 93 (Noise Control) is renumbered as Chapter 82; Chapter 95 (Smoking) is renumbered as Chapter 83; Chapter 98 (Animal Control and Cruelty) is renumbered as Chapter 84; Chapter 99 (Aggressive Panhandling and Public Urination Prohibited) is renumbered as Chapter 85; and all of the foregoing re-numbered chapters are made a part of Title VIII. Chapter numbers 93, 95, 98, ~~and 99,~~ and 111 shall be reserved for future use.

SECTION 7: This Ordinance shall be effective on the date it is adopted.

Adopted this ____th day of _____, _____.

Rennie Brantz, Mayor

ATTEST: _____
Town Clerk

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Marshall Ashcraft, Council Member
SECONDER:	Loretta Clawson, Mayor Pro-Tem
AYES:	Mason, Clawson, Furguele, Ulmer, Ashcraft

**FURTHER CONSIDERATION OF REVISED PUBLIC NUISANCE ORDINANCE
(CHAPTER 80)**

Ms. Meade presented revisions made to Chapter 80 of the Town Code. Mr. Furguele asked whether staff had reviewed this text, with Mr. Miller confirming. Ms. Shook confirmed that nuisances which were listed separately in the UDO and the Town Code would be two separate actions, to which Ms. Meade agreed that they could be. Mr. Ashcraft made a motion, which was seconded by Mayor Pro-Tem Clawson, to approve the text as presented.

ORDINANCE # _____

**AN ORDINANCE TO ENACT CHAPTER 80 ("Public Nuisances") OF TITLE VIII
OF THE TOWN OF BOONE CODE OF ORDINANCES**

WHEREAS, the Boone Town Council finds that it is appropriate and in the public interest to re-organize and revise the Town of Boone's ordinances related to public nuisances; and

WHEREAS, the Boone Town Council is authorized to enact this Ordinance pursuant to its police powers as provided at, *inter alia*, Chapter 160A, ~~sections §§~~ 174, 175, 193, and 200.1 of the North Carolina General Statutes;

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

SECTION 1. The following is hereby adopted as Chapter 80 of Title VIII of the Code of Ordinances:

CHAPTER 80: PUBLIC NUISANCES

Section

- 80.01 Authority
- 80.02 Administration and enforcement
- 80.03 Definitions
- ~~80.04~~ Responsibility for violations
- ~~80.05~~ Nuisances declared
- ~~80.06~~ Duty to investigate possible nuisances
- ~~80.07~~ Notice of existence of nuisance; summary abatement
- ~~80.08~~ Appeal of determination of nuisance; abatement
- ~~80.09~~ Abatement of nuisances by town; ~~violator may have town abate nuisance~~
- ~~80.10~~ Cost of nuisance abatement to be charged to owner of property
- ~~80.11~~ Lien created upon failure to pay nuisance abatement costs
- ~~80.12~~ Notice to chronic violators
- ~~80.13~~ Penalties
- ~~80.14~~ Administrative fee
- ~~80.15~~ Procedures in chapter not exclusive

§ 80.01 AUTHORITY

This chapter is enacted pursuant to the ~~town's~~ authority to define, prohibit, regulate, ~~or and~~ abate acts, omissions, or conditions; detrimental to the health, safety, or welfare of its citizens ~~and or~~ the peace and dignity of the town and to define and abate nuisances pursuant to G.S. § ~~160A-174~~ and ~~§~~ 160A-175; to summarily remove, abate, or remedy everything in the town limits, or within one mile thereof, that is dangerous or prejudicial to the public health or public safety pursuant to G.S. § 160A-193; and to provide annual notice to chronic violators pursuant to G.S. § 160A-200.1.

§ 80.02 ADMINISTRATION AND ENFORCEMENT

This chapter shall be administered and enforced by such person(s) as may be designated by the Town Manager, referred to herein as the "code enforcement officer."

§ 80.03 DEFINITIONS

Unless otherwise defined herein, words used in this chapter that are defined in Chapter 91 of this Code ("Storage and Collection of Solid Waste and Recyclables") shall have the meanings provided in Chapter 91.

§ 80.043 RESPONSIBILITY FOR VIOLATIONS

Any person whose intentional acts or omissions results in a violation of this chapter is responsible for the violation as provided herein. Any person who is a "responsible person" with respect to real property where a nuisance is or was maintained is responsible to abate the nuisance and/or may be subject to penalties as specified herein. For purposes of this chapter, a "responsible person" ~~is~~ includes any a person who has ownership, legal control of, or actual possession of the ~~premises-property~~ in question, including an owner, lessee, sublessee and/or occupant, as well as the invitees of any such person.

§ 80.053 NUISANCES DECLARED.

Each of the following enumerated and described conditions, if created, allowed, and/or maintained with respect to any building, structure, dwelling, dwelling unit or parcel of land, is hereby found, deemed and declared to constitute a detriment, danger and hazard to the health, safety, morals and general welfare to the inhabitants of the town and/or is unsightly, unattractive and contributes measurably to visual blight within the town, and is found, deemed and declared to be a public nuisance wherever the same may exist and the creation, maintenance or failure to abate any such nuisance is hereby declared unlawful.

- (A) Between May 1 and September ~~30~~⁴ of each year, growth of grass or weeds over eight (8) inches in height in an area normally maintained as a lawn. For purposes of this section, a lawn is an area of open, grass-covered land that normally is mowed regularly to keep it short, as opposed to an area that is maintained in a natural state or cultivated with shrubs, herbs, flowers, vegetables, or other garden plants.
- (B) Grass, weeds, vines, shrubs, or other vegetation over eight inches in height encroaching upon or over a sidewalk, greenway, or the curb or edge of the pavement of an abutting street.
- (C) Any condition that blocks or obstructs the natural flow of branches, streams, creeks, surface waters, ditches or drains, except as permitted per lawfully-approved development plans; *provided*, that if the obstruction is caused by natural forces and does not pose an imminent danger or peril to the public, the property owner and any other responsible person shall have a reasonable opportunity to clear the obstruction before it shall be deemed a nuisance.
- (D) Any stormwater retention or impoundment device that is not operating properly.
- (E) Nuisance vehicles as defined by Chapter 81 of this code; *provided*, the process for abating a nuisance vehicle shall be as provided in Chapter 81.
- (F) Any of the following that either (i) is visible from one or more adjacent streets or sidewalks, from public property, or from one or more other private properties, or (ii) poses a danger to the health or welfare of the public or adjacent residents or businesses; *provided, that an accumulation of solid waste shall not constitute a public nuisance if it is (i) properly stored in appropriate receptacles or maintained for collection in accordance with the requirements of Chapter 91 of this code ("Storage and Collection of Solid Wastes And Recyclables"), and (ii) in the case of solid waste placed for special collection, arrangements are made within one business day of the accumulation being created for the town's Public Works Department to collect the solid waste.*
 - (1) Any accumulation of solid waste, including any manner of ~~trash, waste~~refuse, scrap materials, or junk, ~~mattresses, etc.~~
 - ~~(1)(2)~~ (2) A collection place, storage or accumulation of lumber, bricks, blocks, nails, building hardware, roofing materials, scaffolding, masonry materials, electrical supplies or materials, plumbing supplies or materials, heating and air conditioning supplies or material or any other type of old or unusable building supplies (especially those with nails, staples or sharp objects and edges), unless such materials are collected for purposes of an legitimate current or planned improvement or repair ~~to be being~~ made to that same property or pursuant to a legitimate plan to make an improvement or repair to that same property within 6 months of when the accumulation is first created.

- (2)(3) A collection place, storage or accumulation of any amount of garbage, garbage bags, food and kitchen waste, litter, animal waste, trash, or other ~~refuse or any other~~ rotten or putrescible matter of any kind, ~~unless such is properly stored in appropriate receptacles or maintained for collection in accordance with Chapter 91 ("Storage and Collection of Solid Wastes And Recyclables") of this code;~~ provided, that nothing in this ~~subsection~~ subdivision shall be construed to prevent the generally accepted use of a properly maintained compost pile or storage of animal manure being used as fertilizer for lawns, ~~and~~ and for gardens ~~and for~~ other agricultural or horticultural purposes.
- (3)(4) Deteriorated or dilapidated sheds, outbuildings, garages or other uninhabited structures ~~which that~~ have collapsed, partially collapsed or are likely to collapse and ~~which~~ pose a danger of fire, present a risk of injury to neighborhood children who are likely to be attracted to the place, or otherwise pose a danger to adjacent property owners or the public.
- (4)(5) The non-temporary use of carports, open porches, decks, ~~open garages~~ patios and other non-enclosed outdoor areas that are visible from the streets as a storage or collection place for boxes, appliances, furniture (not including outdoor furniture used for their ordinary purposes), tools, equipment, junk, garbage, old, worn out, broken or discarded machinery and equipment, cans, containers, household goods or other similar conditions that increase the likelihood of a fire, may conceal dangerous conditions, or create an unattractive condition or visually blighted property.
- (5) ~~The placement, storage or use of upholstered sofas, couches, chairs or other indoor furniture, appliances, seats removed from motor vehicles or other furniture not intended for outdoor use by the manufacturer used on any open porch, carport, stoop, deck, veranda, terrace, patio or other outdoor area.~~
- (6) A collection place, storage or accumulation of any amount of old, worn out, broken or discarded machinery, vehicle parts, tires, tire rims and tubes, metal products, old clothes, rags, furniture, stoves, refrigerators, appliances, cans and containers, household goods, mattresses, boxes, paper, plumbing or electrical fixtures, glass products, brush, limbs, fencing materials, wood products (not including firewood) or similar materials.
- (7)(6)
- (8)(7) A collection of combustible items such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, brush, old clothes, rags, or any other combustible materials ~~or objects of a like nature, unless such is properly maintained for collection in accordance with Chapter 91.~~
- (G) Any improper or inadequate drainage on private property that causes flooding or interferes with the use of or endangers in any way the streets, sidewalks, parks or other municipal property of any kind.
- (H) Failure to clean or clear a public street of mud and debris related to a construction, timbering, or other similar land use project within 12 hours after notification by the town for major and minor thoroughfares or within 24 hours after such notification for collector and local streets; however, if it is found by the town that the situation poses a clear and present danger or hazard to traffic or the general public, such cleaning or clearing may be required to take place as soon after notification as practicable.
- (I) Failure to remove a dead or partially fallen tree that poses an obvious and imminent threat to a dwelling located on another property or to the traveling public (e.g., motorists, bicyclists or pedestrians).
- (J) Failure to remove any tree or tree limb or any concentration of branches which have fallen due to an act of nature or having been cut, except in an area maintained as a natural area. For purposes of this provision, a "natural area" means any area that is not maintained as a lawn or paved, graveled, hardscaped, or otherwise improved.
- (K) ~~Any accumulation of solid waste, including any manner of trash, waste, scrap materials, junk, mattresses, etc., left on or beside any street or sidewalk unless (i) the solid waste is eligible for collection by the town and (ii) arrangements are made within one business day of the accumulation being created for the town's Public Works Department to collect the solid waste; provided, this provision does not apply to~~

~~accumulations of leaves properly prepared for collection by the town if such accumulation comports with the town's leaf collection policies.~~

- (L)(K) Failure to remediate an accumulation of gravel or similar materials deposited from private property onto a town street or sidewalk after the owner or occupant of the property has been warned of such accumulation by the town within the prior 24 months.
- (M)(L) Any condition that is defined as a nuisance in Chapter 96 of this code ("Streets, Sidewalks, and Other Public Ways; Encroachments"), including but not limited those related to obstruction of or depositing injurious materials upon streets or sidewalks; drainage; and obstruction of sight distances.
- (N)(M) The establishment, continuance, maintenance, or use of any building or place for social gatherings or business which, by reason of the conduct of those persons in attendance, results in any one or more of the following conditions or occurrences: public drinking or drunkenness; public urination or defecation; the unlawful sale, furnishing, or consumption of alcoholic beverages or illegal drugs; the unlawful deposit of trash or litter on public or private property; the destruction of public or private property; the generation of pedestrian or vehicular traffic that obstructs the free flow of residential traffic or interferes with the ability to provide emergency services; excessive, unnecessary or unusually loud noise ~~which-that~~ disturbs the repose of the neighborhood; public disturbances, brawls, fights or quarrels; repeated activities ~~which-that~~ violate other local ordinances; acts which create and constitute a breach of the peace, as defined in G.S. § 19-1.1; or any other activity resulting in conditions that unreasonably annoy, injure or endanger the safety, health, comfort or repose of ~~the~~ neighboring residents or businesses. Any owner, tenant, or other responsible person of any premises who sponsors, conducts, hosts, invites, suffers, permits, or continues to allow a nuisance gathering as described in in this ~~subsection~~division, any person attending such a nuisance gathering, and any owner, tenant or other responsible person who fails to take reasonable steps to prevent a subsequent nuisance gathering is in violation of this section.
- (O)(N) Any condition that is specifically defined as a nuisance pursuant to any other provision of this Code; *provided*, that this subdivision does not apply to conditions declared to be nuisances under Chapter 50 ("Water and Sewer") and any such conditions shall be governed by the provisions of that Chapter.
- (P)(O) Any other condition specifically declared to be a danger or prejudicial to the public health, safety, and general welfare of inhabitants of the town and declared to be a public nuisance by a code enforcement officer and affirmed to be a public nuisance by the town council. The code enforcement officer may declare a nuisance and provide notice to abate the violation(s) prior to the nuisance declaration by the town council. Such notice shall state the condition existing, the location of the violation and that the town council will be requested, after public hearing at which the person notified may appear and be heard, to declare that the conditions existing constitute a danger to the public health, safety, morals, ~~and or~~ general welfare of the town inhabitants and a public nuisance. After such declaration by the town council, in the form of an ordinance, the condition shall be abated as provided in this chapter.

§ 80.064 DUTY TO INVESTIGATE POSSIBLE NUISANCES.

If ~~the-an~~ authorized enforcement officer ~~or designee~~ shall have reasonable cause to believe there is a violation of this chapter, ~~they-he or she~~ shall have the right to enter on any premises within the town ordinance-making jurisdiction at any reasonable hour in order to determine if there is a violation.

§ 80.075 NOTICE OF EXISTENCE OF NUISANCE; SUMMARY ABATEMENT

- (A) *Notice of Existence and Opportunity to Abate Nuisance.* Upon a determination that a public nuisance as described in this chapter exists, the code enforcement officer shall notify in writing the property owner and, to the extent actually known to the code enforcement officer, any other responsible person of the condition constituting the public nuisance and shall order the prompt abatement thereof.

The notice of violation shall notify the recipient of the following:

1. That condition(s) exist on the property which constitute a public nuisance;
2. The condition(s) existing and the Code provision(s) that are violated by such condition(s);
3. The location of such condition(s);

4. That the property owner and any other responsible person ~~is~~are ordered to abate the public nuisance, and that, unless the condition is abated within the prescribed period, the conditions constituting a nuisance will be abated by the town and the cost of abatement shall constitute a lien against the premises, may be collected in the nature of a civil action, and may result in civil penalties;
 5. A statement that civil penalties and an administrative fee of one hundred dollars (\$100.00) will be assessed for a second and any subsequent notice of violation issued under this chapter within ~~twelve~~(12)12 months of the first such notice of violation.
- (B) *Manner of notice.* The notice of a violation of this chapter shall be served on the property owner by (i) personal delivery of such notice or (ii) by mail sent by both regular first class mail and by certified mail, return receipt requested to the address then on file in the county property tax assessor's office or (iii) by electronic mail, if the property owner confirms receipt of the notice by electronic mail. – Any such notice may be served by any authorized representative of the town manager, his or her designee, the code enforcement officer, or by any police officer of the town. If service cannot otherwise be made on a property owner, the property shall be posted with the notice. Notice shall be served in the same manner upon any other responsible person of whom the code enforcement officer is actually aware.
- (C) *Opportunity for owner or other responsible person to abate the nuisance.* Except as provided at ~~subsection~~division (D) of this section, the town ordinarily shall allow 15 calendar days from the receipt of such written notice for abatement of the nuisance. However, for good cause expressed in the written notice to abate, the code enforcement officer may provide a shorter or longer time for the abatement.
- (D) *Summary Abatement.* Notwithstanding the foregoing provisions or any other provision of this Chapter, if, in the opinion of the Town Manager, his or her designee, or the code enforcement officer, an unlawful condition is such that it poses imminent danger or peril to public, the town ~~'s Public Works Department~~ may, with or without prior notice, proceed to abate the same, and the cost thereof shall be charged against the property owner.
- (E) Any defect in the method of giving the notice required by this section, or in the form thereof, or the giving of such notice to an improper person, shall not prevent the town, in any case where the work of abating an unlawful condition upon any property is borne by the town, from collecting the cost thereof from the owner, nor shall it affect the validity of the lien on the property for such cost, nor shall it subject the town to any liability.

§.80.086 APPEAL OF DETERMINATION OF NUISANCE; ABATEMENT

- (A) Within the period for abatement specified on the notice of violation, the property owner or other responsible person may request in writing a review of the nuisance determination by the Town Manager. Unless the unlawful condition is dangerous so as to require summary abatement per the preceding section, such written request shall stay the abatement of the nuisance by the town until the completion of the review by the Town Manager or his or her designee. In the event no appeal is taken, the town may proceed to abate the nuisance.
- (B) Within 10 days of receiving a request for review, the Town Manager shall hold a hearing to review the nuisance determination. – At this hearing, all interested persons shall be heard and may offer evidence and be represented by an attorney. The hearing shall be conducted in an informal manner to determine whether there is a sufficient legal and factual basis to affirm the nuisance determination, and the rules of evidence shall not apply; provided, that the decision of the Town Manager shall be based upon substantial and reliable evidence. If, following the hearing, the Town Manager upholds the findings, and declares the condition existing on the property to be a danger and hazard to the health, safety, and general welfare of the inhabitants of the town and a public nuisance, the Town Manager shall issue a written order directing the property owner or other responsible person to abate the nuisance within 15 days and/or, if the nuisance is not abated by the property owner, directing the town to abate the condition constituting a nuisance.
- (C) Rather than reviewing an appeal, the Town Manager, in his or her sole discretion, may for good cause refer the review of any notice of violation to the town council.
- (D) If a nuisance is found to exist, the responsibility for abatement shall rest with the property owner and any other responsible person, notwithstanding that the nuisance is found to exist, wholly or in part, within a town easement which crosses private property.
- (E) Nothing in this section shall prevent the property owner or other responsible party from abating the nuisance in question in accordance with the notice of violation prior to any requested review pursuant to this section.

§ 80.097 ABATEMENT OF NUISANCES BY TOWN; VIOLATOR MAY HAVE TOWN ABATE NUISANCE.

- (A) If any person, after having been ordered to abate a public nuisance described in this ~~article~~ chapter, fails, neglects or refuses to abate or remove the condition constituting the nuisance by the date specified in the notice of violation, the town ~~shall~~ may cause the condition to be removed or otherwise remedied by having employees of the town or a private contractor hired by the town to go upon such premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the Town Manager or his designee. The cost of abatement shall be paid by the property owner.
- (B) Any person who has been ordered to abate a public nuisance may, within the time allowed by this article, request ~~in writing that~~ the town ~~in writing to~~ remove such condition causing the nuisance. ~~If the town abates the nuisance,~~ the costs of ~~of which~~ abatement shall be paid by the person making the request.

§ 80.1008 COST OF NUISANCE ABATEMENT TO BE CHARGED TO PROPERTY OWNER

Upon the completion of abatement by the town, the Town Manager, ~~or his or her designee,~~ or the code enforcement officer shall deliver to the finance director a statement showing the actual cost of the abatement of the unlawful condition plus any additional charges, in accordance with the schedule of fees and charges established ~~annually~~ by the town Council. The finance director shall thereupon mail to the owner of the subject property a bill covering the cost, if with reasonable diligence the name and address of such owner can be ascertained, with instruction that such charges are due and payable within 30 days from the receipt thereof. In the event the costs for abatement are not paid within 30 days after receipt of the statement of charges, such charges may be recovered by the town in a civil action in the nature of debt.

§ 80.1109 LIEN CREATED UPON FAILURE TO PAY NUISANCE ABATEMENT COSTS.

In the event charges for the removal or abatement of the public nuisance are not paid within 30 days after receipt of the statement of charges, such charges shall become a lien against the real property upon which such costs are incurred. The amount of such lien shall be added to the tax roll and collected as unpaid ad valorem taxes.

§ 80.120 NOTICE TO CHRONIC VIOLATORS.

For purposes of this section, a chronic violator is a person who owns property with respect to which, in the previous calendar year, the town gave notice of violation for a public nuisance violation at least three times under any provision of this chapter.

At the beginning of each calendar year, the code enforcement officer shall notify each person who was a chronic violator that, if the violator's property is found to be in violation of this chapter in this calendar year, the town shall, without further notice, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The notice shall be sent by registered or certified mail. When service is attempted by registered or certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. If service by regular mail is used, a copy of the notice shall be posted in a conspicuous place on the premises affected.

§ 80.131 CIVIL PENALTIES

- (A) *Penalty for failure to comply with abatement order.* Any person failing to comply with an order of abatement issued pursuant to this article, where no appeal is taken within the prescribed time, or after ratification of the order on appeal, shall be ~~guilty of a misdemeanor and subject to a fine of up to \$500 as provided in G.S. 14-4. In addition, the offender shall be~~ subject to a civil penalty in the amount of \$50 per day for so many days as the person remains in violation until such date as the nuisance is abated, up to a maximum of ~~10 ten (10)~~ days.
- (B) *Penalty for second and subsequent violations.* Upon second and subsequent violations of the same provision of this chapter by a person within ~~a calendar year~~ 12 months of that person receiving a notice of violation under this chapter, a civil penalty of \$100 shall be assessed upon the issuance of the notice of violation. If the nuisance is not abated within the prescribed time period, the person shall be guilty of a misdemeanor and subject to a fine of up to \$500 ~~as provided in G.S. 14-4.~~ In addition, the offender shall be subject to a civil

penalty in the amount of \$100 per day for so many days as the person remains in violation until such date as the nuisance is abated, up to a maximum of ~~10~~~~ten~~~~(10)~~ days. For purposes of this ~~subsection~~~~division~~, the "same provision" of this chapter means any one of ~~the subsections §§ of 80.053~~~~(A4)~~ through 80.05~~(O3)~~~~(14)~~ of this chapter; and a violation of any of ~~the subparts (a) through (g) of subsection § 80.053~~~~(F6)~~ shall be considered a violation of the same provision ~~(that is, § 80.05(F))~~ of this chapter.

(C) *Appeal of civil penalty.* An appeal of a civil penalty must be filed in writing with the Town Manager within ~~ten~~~~(40)~~10 days after service of a written demand for payment. The written appeal shall provide the reasons the petitioner contends that the civil penalty was wrongly applied and any supporting documentation.

(1) Within 10 days of receiving a request for review, the Town Manager shall hold a hearing to review the civil penalty. At this hearing, all interested persons shall be heard and may offer evidence and be represented by an attorney. The hearing shall be conducted in an informal manner and the rules of evidence shall not apply; provided, that the decision of the Town Manager shall be based upon substantial and reliable evidence. The Town Manager may reduce the penalty if the Town Manager determines that:

- i. The appellant has acted in good faith; and
- ii. The failure of the appellant to correct a violation is the result of circumstances beyond the appellant's control; or
- iii. There are other circumstances which make the amount of the presumptive civil penalty unfair in that particular case.

(2) Rather than reviewing an appeal, the Town Manager, in his or her sole discretion, may for good cause refer the review of a civil penalty to the town council.

§ 80.142 ADMINISTRATIVE FEE

(A) *Fee assessed for second and subsequent violations.* Any person who is issued a second notice of violation under this chapter within ~~12~~~~twelve~~~~(12)~~ months of the first notice of violation issued hereunder shall be subject to an administrative fee of one hundred dollars (\$100.00) in addition to any other charge. For each additional nuisance notice of violation occurring prior to the expiration of a ~~twelve~~~~(12)~~12-month period following issuance of the first nuisance notice of violation, the person shall be subject to an administrative fee of one hundred dollars (\$100.00). The person may also be assessed any costs incurred in obtaining service of the public nuisance notice including legal publication.

(B) *Appeal of administrative fee.* An appeal of an administrative fee demand for payment must be filed in writing with the Town Manager within ~~10~~~~ten~~~~(10)~~ days after service of the written demand for payment. The written appeal shall provide the reasons the petitioner contends that the administrative fee was wrongly applied and any supporting documentation.

(1) Within 10 days of receiving a request for review, the Town Manager shall hold a hearing to review the civil penalty. At this hearing, all interested persons shall be heard and may offer evidence and be represented by an attorney. The hearing shall be conducted in an informal manner and the rules of evidence shall not apply; provided, that the decision of the Town Manager shall be based upon substantial and reliable evidence. The Town Manager may reduce the penalty if the Town Manager determines that:

- i. The appellant has acted in good faith; and
- ii. The failure of the appellant to avoid a second or subsequent violation is the result of circumstances beyond the appellant's control; or
- iii. There are other circumstances which make the assessment of the administrative fee unfair in that particular case.

(2) Rather than reviewing an appeal, the Town Manager, in his or her sole discretion, may for good cause refer the review of an administrative fee to the town council.

§ 80.153 PROCEDURES IN CHAPTER NOT EXCLUSIVE.

The procedures set forth in this article shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances.

- (A) Nothing in this article shall be deemed to prevent the town from proceeding in a criminal action against any person violating the provisions of this article as provided in G.S. § 14-4.
- (B) Nothing in this chapter shall be deemed to limit the town's authority to summarily remove, abate, or remedy any condition within the town limits or within 1 mile thereof that is dangerous or prejudicial to the public health or public safety as provided in G.S. § 160A-193.
- (C) In addition to or in lieu of proceeding under any other provision(s) of this Chapter, the town may file a legal action to abate a nuisance as provided at G.S. § 160A-175.

SECTION 2: This Ordinance shall be effective on the date it is adopted.

Adopted this ____th day of _____, _____.

Rennie Brantz, Mayor

ATTEST: _____

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Marshall Ashcraft, Council Member
SECONDER:	Loretta Clawson, Mayor Pro-Tem
AYES:	Mason, Clawson, Furgiuele, Ulmer, Ashcraft

PROPOSED REVISIONS TO THE TOWN'S NOISE ORDINANCE (CURRENT CHAPTER 93; NEW CHAPTER 82)

Ms. Meade presented revisions to the Town's noise ordinance, and discussion began with Mr. Ashcraft and Mr. Furgiuele agreeing that the default start time for noisy activities should be 7 a.m. instead of 6 a.m. Mayor Pro-Tem Clawson pointed out that this change could effect recycling and garbage pick up, with Mr. Miller confirming the fact that garbage and recycling pick up starts between 6 and 7 a.m. Mr. Ward further noted that there may be negative feedback from builders in decreasing the time limit due to the small construction window in the area. Discussion ensued regarding public demonstrations, with members agreeing that demonstrations would be allowed during the hours of 7 a.m. and 7 p.m. (or dusk, whichever is later) during the week, and between 9 a.m. and 7 p.m. (or dusk, whichever is later) during the weekend. Mayor Pro-Tem Clawson made a motion to approve the text as amended. Ms. Mason seconded the motion.

ORDINANCE # _____

**AN ORDINANCE TO REVISE AND REORGANIZE CHAPTER 82 ("Noise Control")
OF THE TOWN OF BOONE CODE OF ORDINANCES**

WHEREAS, the Boone Town Council finds that it is appropriate and in the public interest to revise the Town of Boone's noise ordinance in order to further strengthen and clarify the ordinance; and

WHEREAS, the Boone Town Council is authorized to enact this Ordinance pursuant to its police powers as provided at §§ 174, 175, and 184 of Chapter 160A of the North Carolina General Statutes;

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

SECTION 1. Chapter 93 of the Code of Ordinances ("Code") is hereby re-numbered as Chapter 82, made a part of Title VIII of the Code, and revised as follows:

CHAPTER 82: NOISE CONTROL

Section

82.01 Statement of policy; interpretations

82.02 ~~Types of~~ General prohibition

~~82.03~~ Noises prohibited and types of noises not at all times

~~82.04~~ Noises prohibited, enforcement, penalties at certain times

~~82.03~~ Vicarious responsibility

~~82.04~~ Responsibility of all persons present

~~82.05~~ Limits on ~~82.05~~ Noises that generally do not violate this chapter

~~82.06~~ Special provisions concerning live, recorded or amplified music originating from commercial establishments and live music venues in the Town's B-1, B-2, B-3, and U-1 zoning districts

~~82.07~~ Responsible parties

~~82.08~~ Enforcement; Penalties

§§ 82.01 STATEMENT OF POLICY; INTERPRETATIONS.

~~(A)~~ *Statement of policy.* It is the policy of the Town of Boone to maintain a peaceful community ~~at all times~~, while recognizing that certain noises are generated by the ~~expected and~~ acceptable economic and recreational activity of a vibrant community. The goal of the town is to encourage such activity while ensuring that time periods during which many ~~of the~~ residents are customarily at rest or have an expectation of peaceful enjoyment of their residences are not disturbed by unacceptable levels ~~or types~~ of noise. ~~It shall be unlawful for any person, firm, corporation or other entity to make, allow, or cause to be made any excessive, unreasonable or unusually loud noise, as described herein, or to cause any noise for the primary purpose of annoying or disturbing another person.~~

~~(A)~~

~~(B)~~ ~~(B) Interpretations.~~

~~(B)~~ ~~(1) Interpretations and Definitions.~~ For purposes of this chapter, the following interpretations and definitions shall apply.

- (1) When the word "reasonable" is used herein, it shall be evaluated with reference to the normal expectations for sound during normal waking hours versus the normal expectations for sound during normal sleeping hours, with a higher level of sound acceptable during the day and a lower level of sound acceptable during the night. It shall also be evaluated with reference to the location involved, with a higher level of noise expected and tolerated if generated within a business or university district within the town and a lower level of noise expected and tolerated if generated within a residential district within the town.
- (2) ~~—(2) For purposes of this chapter,~~ A "reasonable person" is one who is moderate, fair and sensible. Although enforcement of this chapter shall often be the result of a complaint received by the Town, in each instance where a complaint is received and the standard of "reasonableness" invoked, a Boone police officer answering the complaint shall separately determine, based upon his or her investigation and in light of the circumstances of the situation, whether the noise in question is at an "unreasonable" level.
- (3) ~~—(3) For purposes of this chapter,~~ "A person's "temporary or usual place of abode or place of employment" shall not include locations on the campus of Appalachian State University and located in the U-1 zoning district, as they relate to noises which originate from areas on campus located in the U-1 zoning district.
- (4) ~~—(4) For purposes of this chapter,~~ Whether a sound is "audible within a person's temporary or usual place of abode" shall be determined with one or more windows of the complaining party open, assuming weather conditions during which it is reasonable and customary for one or more windows to be open.
- (5) Noise is "disturbing" if it is perceived by a person of ordinary sensibilities as interrupting the normal peace and calm of an area.
- (6) "Unreasonably loud noise" shall mean noise which is substantially incompatible with the time and location where created or heard to the extent that it brings about an actual or imminent interference with peace, rest, or good order.

§§ 82.02 TYPES OF GENERAL PROHIBITION

- (A) It shall be unlawful for any person to make, allow, continue or assist to be made, allowed or continued:
 - (1) Any unreasonably loud noise; or
 - (2) Any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensibilities, within the jurisdictional limits of the town; or
 - (3) Any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons residing, visiting or working in the area from which said noises emanate, or as to unreasonably interfere with the peace and comfort of residents or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.
- (B) Factors for determining whether noise is unreasonably loud or disturbing include, but are not limited to, the following:
 - (1) The proximity of the sound to sleeping facilities, whether residential or commercial;
 - (2) The proximity of the sound to the noise sensitive areas;
 - (3) The land use, nature, and zoning of the area(s) from which the sound emanates and the

area where it is received or perceived;

(4) The time of day or night the sound occurs;

(5) The duration of the sound; and

(6) Whether the sound is recurrent, intermittent, or constant.

(C) Non-applicability within ASU campus areas. This chapter shall not be enforced with respect to violations alleged to disturb persons located on the campus of Appalachian State University and in the U-1 zoning district as a result of noises that originate from areas on campus located in the U-1 zoning district.

~~§§ 82.03 NOISES PROHIBITED AND TYPES OF NOISES NOT PROHIBITED, ENFORCEMENT, PENALTIES. AT ALL TIMES~~

The following ~~acts and~~ noises are ~~the types of~~ declared to be unreasonably loud and/or disturbing ~~acts and~~ noises ~~which in violation of § 82.02 and are prohibited and the types at all times. This enumeration shall not be construed to be an exclusive list of loud and disturbing acts and~~ noises which ~~generally do not violate the prohibitions of this chapter. The enumerations of divisions (B) and (C) § 82.02, nor shall satisfying any requirements of this section shall not be deemed to be exclusive, but are listed as examples of the types of noises prohibited, by category, render a sound in itself reasonable~~

- (A) ~~Noises intended to disturb prohibited.~~ The creation of noise for the primary purpose of disturbing another person, such purpose gleaned from the circumstances surrounding the generation of the noise, ~~is prohibited;~~
- (B) *Horns, signaling devices, sirens, and the like.* The sounding of any horn or signal device on any automobile, motorcycle, bus, or other vehicle, except as a warning or danger signal, ~~so as to create an unreasonably loud or harsh sound;~~ or the sounding of such device repeatedly or for an unreasonable period of time; or the use of any siren upon any vehicle, other than a bona fide police, fire or other emergency vehicle or equipment.
- (C) *Television sets, radios, musical instruments, or amplification and playing devices, and the like.* The outdoor use, operation, or playing of any television set, radio, musical instrument or sound amplifying device, or other machine or device for the production or reproduction of sound, including but not limited to devices designed for playing music and other material from records, compact discs, MP3's and the like, in a manner or at a volume which would or does annoy or disturb a person of reasonable sensibilities within his or her temporary or usual place of abode or place of employment.
- (D) *Yelling, shouting, and the like.* The frequent, constant, or continual yelling or shouting, in a manner or at a volume which would or does annoy or disturb a person of reasonable sensibilities within his or her temporary or usual place of abode or place of employment.
- (E) *Animals.* The frequent, constant, or continual noise from any animal, such as the continual, frequent, chronic and intermittent; or uncontrolled barking of a dog outside, at a volume level or for a period of time which would or does annoy or disturb a person of reasonable sensibilities within his or her temporary or usual place of abode or place of employment.
- (F) *Vehicles.* The use of any motorized vehicle so out of repair, or so loaded, altered or operated as to create grating, grinding, rattling or other noise which would or does annoy or disturb a person of reasonable sensibilities within his or her temporary or usual place of abode or place of employment, or the operation of a motorized vehicle with a defective, altered, or missing muffler.
- (G) *Loading, unloading, opening boxes.* The creation of an unusual and unreasonable level of

- noise in connection with loading or unloading any vehicle, the opening and destruction of boxes, bales, crates, and other containers, or the prolonged deposit of solid waste materials or recyclables into containers or receptacles, at a noise level which would or does annoy or disturb a person of reasonable sensibilities within his or her temporary or usual place of abode or place of employment.
- (H) *Alarms.* Car, home and similar types of alarms which are activated and not discontinued promptly after the person in control of the alarm is advised or discovers that the alarm has been activated, unless the alarm is allowed to continue because said person believes that a crime is being committed.
- (I) *Compression release engine brakes or air brakes (aka "Jake Brakes").* The noise caused by the release or use of compression release engine brakes, sometimes referred to as air brakes or "Jake Brakes."

§ 82.04 NOISES PROHIBITED AT CERTAIN TIMES

The following noises are declared to be in violation of § 82.02 if generated between the hours of 10:00 pm and 6:00 am and are prohibited between those hours. This enumeration shall not be construed to be an exclusive list of actions or noises that violate § 82.02 nor shall satisfying any requirements of this section render a sound in itself reasonable.

- (A) *Outdoor use of television sets, radios, music amplification and playing devices, and the like.* The outdoor use, operation, or playing of any television set, radio, musical instrument, phonograph, sound amplifying device or other machine or device for the production or reproduction of sound.
- (B) *Indoor use of musical instruments, sound amplification, and the like.* The indoor use, operation or playing of a musical instrument or sound amplifying device at such volume or in such manner as to be audible within another person's temporary or usual place of abode; provided, if the place of abode is within an apartment building or other multi-family housing structure, the sounds covered by this section originate within the same apartment building, and the owners and/or tenants of all apartments within the apartment building are members of a property owner's association, renter's association, or like organization, which has adopted rules governing noise within the apartment building, such rules will govern such sounds within the apartment building; provided further that such rules do not supersede or excuse any requirements of this chapter relative to noises originating from within the apartment building, but heard elsewhere. For this exemption to apply, said duly adopted rules must be on file with the Boone Police Department.
- (C) *Yelling, shouting, and the like.* Yelling, shouting, whistling, or singing outdoors at a volume which is audible within another person's temporary or usual place of abode.
- (D) *Parties.* Noise from parties or gatherings of people, including but not limited to the noise from many voices speaking at once, drunken conversation, yelling, shouting, singing, music, breaking glass, or fireworks, which is audible within another person's temporary or usual place of abode. For purposes of this paragraph, a "party" is considered any gathering of people, whether at a fixed location or otherwise, for social interaction.
- (E) *Fireworks.* The use of fireworks or other noisemakers which produce sound audible within another person's temporary or usual place of abode, except ~~on the fourth of July as~~, allowed pursuant to a valid pyrotechnics permit issued under applicable law ~~which produce sound audible within another person's temporary or usual place of abode.~~
- (F) *Vehicles.* The prolonged idling or running of a motor vehicle for a period of time exceeding what is reasonably needed to "warm" a vehicle's engine before use, which is audible within

another person's temporary or usual place of abode.

- (G) *Loading or unloading commercial vehicles; the deposit or disturbance of solid waste materials and recyclables.* ~~The noise made~~ in connection with ~~the~~ loading or unloading of any commercial vehicle, ~~the deposit of solid waste materials or recyclables into containers or receptacles, or the or the deposit, collection or~~ disturbance of solid waste materials or recyclables ~~already in containers or receptacles~~, at a sound level audible within another person's temporary or usual place of abode.

- (H) *Construction activity.* ~~Noise resulting from~~ construction activity audible within another person's temporary or usual place of abode, unless conducted by a governmental entity or its contractor and specifically authorized by the Boone Town Council following general notice to the public and a public hearing. For purposes of the notice required by this section and all subsequent sections, it shall be sufficient that the specific topic of the public hearing is included in the agenda of the meeting during which it is to take place and the agenda, with the item listed, is posted in advance of the meeting on the town's official website.

~~—(2) Enforcement. The provisions of this division may be enforced as the result of the receipt of a complaint or as the result of the observations of any police officer.~~

~~—(4) Written notice of warning or violation, time for payment, and action by town for non-payment. A violator shall be issued a written warning or notice of the violation stating the amount of the civil penalty. Any civil penalty must be paid within 30 days after the receipt of the notice. If the violator does not pay the penalty within 30 days, the town may recover such penalty and all subsequently accruing penalties in a civil action. In the event that it is necessary for the town to institute a civil action to collect one or more civil penalties, the violator shall be responsible for all costs, including attorney's fees, incurred by the town.~~

~~—(D) Noises and activities which do not generally violate this chapter.~~

§ 82.05 NOISES THAT GENERALLY DO NOT VIOLATE THIS CHAPTER

The following noises and activities ~~do not generally violate this chapter~~ are exempt from the provisions of this chapter unless they produce a risk of serious or unnecessary bodily harm:

- (A) ~~Town and town-arranged vehicles work.~~ The normal and customary sounds produced by town vehicles, employees and contractors ~~sounds from town vehicles and vehicles arranged by the town,~~ engaged in

- (1) ~~activities related to the discharge of~~ critical and/or emergency town duties such as removing snow, repairing damaged water or sewer lines, responding to fires, responding to vehicle accidents, and the like; or

- ~~(4)(2) the normal day-to-day operations of the town; provided, that such activities are exempt only if conducted between the hours of 6:00 a.m. and 10:00 p.m., unless explicitly authorized by the Town Council following general notice to the public and a public hearing, will not be considered noises or activities which violate this chapter, but picking up solid waste and recycling, construction and non-routine maintenance activities are exempt only if conducted between the hours of 6:00 a.m. and 10:00 p.m., unless explicitly authorized by the Town Council following general notice to the public and a public hearing.~~

- (G)(B) *Community events.*

- (1) The normal and customary sounds emanating from a non-recurring community event conducted by a governmental entity, school, church, or similar non-commercial entity ~~will not be considered noises or activities which violate this chapter~~, so long as the event with which the noise is associated begins no earlier than 6:00 a.m. and ends no later than 10:00 p.m. For purposes of this paragraph, "non-recurring" shall refer to an event which occurs no more than four times during any calendar year. However, an event can

lose its status as a community event under this division if multiple complaints from different sources are received about the noise level emanating from the event, and upon investigation, the police determine that the noise levels ten feet or more from the property boundaries of the property upon which the event is conducted, or with respect to events such as parades which utilize the public streets, ten feet or more from the curb or edge of the street pavement when no curb exists, violate the standards set out in ~~§§ 82.065~~. If an event loses its status as a "community event" it shall no longer enjoy the presumption under this section that it does not violate the chapter.

- (2) Any event or series of events specifically authorized in advance by the Boone Town Council following general notice to the public and a public hearing may be allowed as a community event, including one for which noise exceeding the limits of ~~§§ 82.065~~ is predicted, upon a finding that such event provides a benefit to the citizens of Boone and the public at large which exceeds the potential detrimental effects of the noise it may generate. Before approving such event or series of events, the Town Council shall confirm that notice of the public hearing was posted at least seven days prior to the hearing on the town's website and in every other place at which the town has posted notice of the meeting during which the public hearing is to take place. The applicant for designation as a community event shall provide a schedule of the starting and ending time of the event, a description of the noise-generating activities which are expected from the event, a summary of all steps which will be taken to mitigate any negative noise impacts of the event, and the applicant shall describe the expected benefits to the citizens of Boone and the public at large which will be derived from the event.

~~(D)~~ (C) *Sporting events associated with Watauga High School or Appalachian State University.* The normal and customary sounds emanating from a sporting event held on the campus and associated with Watauga High School or Appalachian State University will not be considered noises or activities which violate this chapter, so long as the event with which the noise is associated does not begin prior to 6:00 a.m. and has been scheduled to end by 11:00 p.m., and any crowd associated with the event is expected to disperse by 11:30 p.m., even if due to unexpected delays, overtime periods and the like, the event extends past 11:00 p.m. and the crowd does not disperse until after 11:30 p.m. This exemption, however, does not relieve people leaving such an event from minimizing any loud talking, shouting, and the like, which may be heard in places of abode in the vicinity of the event, and should any ~~such~~ person fail to heed a request by a Boone police officer to lower the volume of ~~any such~~ noise ~~which he or she may be causing, such that~~ person may be cited and fined pursuant to ~~§§ 82.02(A), (B) or (C)~~.

~~(E)~~ (D) *Remote vehicle entry or key.* The use of a remote vehicle entry or key causing an audible "beep" when used simply to lock or unlock a vehicle prior to or following the reasonable use of the vehicle ~~shall not be considered an excessive, unreasonable or unusually loud noise~~.

(E) *Ordinary use of power tools.* The ordinary use of a noise-causing tool, such as a lawnmower, ~~weed trimmer, "weed eater,"~~ circular saw, chain saw, and the like, if used on weekdays between the hours of 7:00 a.m. and dusk 7:00 p.m. or dusk (whichever is later) or on weekends between 9:00 a.m. and 7:00 p.m. or dusk (whichever is later), ~~shall not be considered an excessive, unreasonable or unusually loud noise~~ so long as the tool is being used for a legitimate maintenance or construction purpose associated with the property upon which it is utilized; and the person using such tool takes all practical steps to minimize its disturbing noise impacts on others.

(F) *Emergency work.* Emergency work performed for the purpose of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril. This emergency exception includes maintenance, backup or upkeep strictly necessary to

keep emergency equipment, such as generators, in operating order. This exception shall only apply for the shortest duration of time reasonably required to address the emergency.

(G) *Public Demonstrations.* Noise resulting from parades, lawful picketing or other public demonstrations protected by the U.S. Constitution or federal law or for which a permit has been granted by the town, provided that such demonstrations are conducted between the hours of 7:00 a.m. and 7:00 p.m. or dusk (whichever is later) on weekdays or between 9:00 a.m. and 7:00 p.m. or dusk (whichever is later) on weekends.

(H) *Safety Signals.* Noise of safety signals, warning devices, and emergency pressure relief valves, provided such signals are used in a manner consistent with promoting public health and safety.

(F)(I) *Emergency Vehicles.* Noise resulting from the lawful operation of any authorized emergency vehicle.

§§ 82.82.0506 SPECIAL PROVISIONS CONCERNING LIMITS-ON-LIVE, RECORDED OR AMPLIFIED MUSIC ORIGINATING FROM COMMERCIAL ESTABLISHMENTS AND LIVE MUSIC VENUES IN THE TOWN'S B-1, B-2, B-3, AND U-1 ZONING DISTRICTS.

(A) During the days and times set out immediately below, a live music venue or commercial establishment located in the town's B-1, B-2, B-3 or U-1 zoning district may emit live, recorded or amplified music not exceeding the stated decibel limits, subject to the rules for measurement provided. For purposes of this section, a "live music venue" is an establishment that has the legal right to present live performances of music or amplification of recorded music to members of the public, or an establishment located in the U-1 zoning district which has the permission of Appalachian State University to present live performances of music or amplification of recorded music.

(1) Monday through Wednesday:

- (a) 70 dB from 7:00 a.m. to 11:00 p.m.
- (b) 60 dB from 11:00 p.m. to 7:00 a.m.

(2) Thursday through Saturday:

- (a) 60 dB from 2:00 a.m. to 7:00 a.m.
- (b) 70 dB from 7:00 a.m. to 10:00 a.m.
- (c) 85 dB from 10:00 a.m. to 10:00 p.m.
- (d) 75 dB from 10:00 p.m. to 2:00 a.m.

(3) Sunday:

- (a) 60 dB from 2:00 a.m. to 10:00 a.m.
- (b) 85 dB from 10:00 a.m. to 8:00 p.m.
- (c) 70 dB from 8:00 p.m. to 2:00 a.m.

(B) *Rules for measurement.* For purposes of this section, sound shall be measured using the following rules:

(1) *Devices used for measurement.* Measurements of decibel levels shall be made with a sound level meter designated at least as "Type II" meeting ANSI S1.4-1971 requirements, (referring to "American National Standard Specification for Sound Level Meters," Acoustical Society of America, New York, NY,") (hereinafter referred to as, "decibel meter").

(2) *Settings of decibel meter when sound measured.* The sound measurement shall be made with the decibel meter using the A-weighted scale, set on "slow" response.

(3) *Location of measurement.* Measurements taken to determine compliance with this section shall be made at or within ten feet outside any property line for the property upon which the measured activity is taking place.

- (4) *Duration of Measurement to establish violation.* In order to establish a violation of this section, the duration of measurement(s) which must be registered by the decibel meter must equal or exceed a level continuously exceeding the established limits for 15 continuous seconds, or for two or more periods within a 60-second period, each exceeding the established limits for five continuous seconds.
- (5) *Time of measurement.* Except for sounds created or broadcast outside the commercial establishment or live music venue, and unless the door of a commercial establishment or live music venue is open for periods exceeding times needed for normal ingress and egress, such as when a door is propped open, measurements shall be taken with the door closed.
- (C) *Associated sounds authorized by this section.* So long as the live, recorded or amplified music does not exceed the limits of this section for establishing a violation, associated sounds of a commercial establishment or live music venue, including amplified speech from performers and disc jockeys, and the customary and expected crowd noises related to a performance, such as applause, cheering for the performer, conversations among spectators, and similar sounds, shall not be a basis for finding a violation under this section.
- (D) *Sounds not authorized by this section.* This section does not excuse people who have left the premises of a commercial establishment or live music venue, temporarily or otherwise, from compliance with this chapter. "Premises," for purposes of this subsection refers, when such activities are conducted indoors, to the indoor area of a commercial establishment or live music venue in which the live, recorded or amplified music is created or broadcast. "Premises," for purposes of this subsection refers, when such activities are conducted outdoors, to the borders of the property upon which the live, recorded or amplified music is created or broadcast. A person, for example, who has left an indoor music venue to smoke a cigarette on the public sidewalk outside the venue is subject to the full enforcement of this chapter. Similarly, otherwise prohibited noise created by an employee of the establishment or live music venue, such as that caused by depositing empty bottles or cans in recycling containers in the middle of the night, is not excused by this section, and such noise production shall subject the offending individual to enforcement in accordance with the provisions of this chapter.

~~—(E) *Enforcement.* The provisions of this section shall be enforced only as the result of the receipt of a complaint.~~

- ~~—(F) (E) *Responsibility for violation.* The owner of the commercial business establishment or live music venue shall be responsible for a violation of this section, or if none can be determined, the owner of the property shall be responsible. Before the owner of the property is cited, however, the town shall determine whether there is any current lease of record registered in the Watauga County Registry, and if so, the lessee or tenant shall stand in the place of the owner and shall be responsible. An entity such as a limited liability company or corporation may not evade responsibility for repeat violations by altering its structure, and if there is any identity or overlap between the ownership, membership, or shareholders of a cited sole proprietorship, partnership, limited liability company, corporation, or other entity, and the ownership, membership or shareholders of a subsequently cited sole proprietorship, partnership, limited liability company, corporation, or other entity operating in the same location, or in the case of the outdoor emission of live, recorded or amplified music, in any location within the corporate limits, the entities shall be considered one and the same.~~

- (F) *Written notice of warning or violation.* A person or entity responsible for a violation under this section shall be issued a written warning or notice of the violation stating the amount of the civil penalty, as appropriate. Such written notice may be delivered to the person in

charge of the commercial establishment or live music venue at the time of the violation, or, if none is present, to any employee of the commercial establishment or live music venue present at the time of the violation. Alternatively or in addition, in the case of an entity which has an agent for service of process registered with the North Carolina Secretary of State, a written warning or notice of the violation may be mailed to such agent at the registered address by regular mail or certified mail, return receipt requested. ~~Any civil penalty must be paid within 30 days after the receipt of the notice. If the person or entity responsible does not pay the penalty within 30 days, the town may recover such penalty and all subsequently accruing penalties in a civil action. In the event that it is necessary for the town to institute a civil action to collect one or more civil penalties, the person or entity responsible shall be responsible for all costs, including attorney's fees, incurred by the town.~~

(Ord. passed 5-15-2012; Ord. passed 4-16-2015)

§ 82.07 RESPONSIBLE PARTIES; NOTICE

(A) Any person who creates or assists in creating an unreasonably loud or disturbing noise or other violation of this chapter is responsible for remedying the violation and may be held liable for civil or criminal penalties under this chapter.

(1) A person shall be deemed to create or assist in creating the unreasonably loud or disturbing noise or other violation if that person owns, manages, leases, occupies, or operates any residence, business, or location at which the noise is generated.

(2) In those instances where the violating noise is the result of the actions of a group of persons, such as a late-night party, all persons present shall be liable for the appropriate civil penalties, whether or not they individually created the offending noise.

(B) Notice. Written warning or a citation or notice of violation may be served in person, by first class mail, or by email. A property owner who does not occupy the property from which the violating noise is generated may be served by first class mail to the address currently on file with the county tax assessor. A person who occupies or otherwise is in possession of the property may be served by posting.

(C) Exception. The persons responsible for a violation of § 82.06 regarding live, recorded or amplified music and the manner of notice to be made on the same shall be as specified in § 82.06.

§ 82.08 ENFORCEMENT; PENALTIES

(A) The town manager, chief of police or their designee(s) shall have responsibility for the enforcement of the noise regulations contained herein. Nothing in this section shall prevent the town manager or chief of police or their designee(s) from obtaining voluntary compliance by way of warning, notice or education

(B) Initiation of enforcement. The provisions of § 82.03(A) (noises intended to disturb) and § 82.06 (live, recorded or amplified music) shall be enforced only as the result of the receipt of a complaint. All other provisions of this chapter may be enforced either as the result of the receipt of a complaint or as the result of the observations of any law enforcement officer or other employee or official of the town.

(C) Initial warning(s) required. Before a citation may be issued and penalties assessed against a person pursuant to divisions (D) and (F) below, that person shall be given written warning(s) within any rolling 12-month period as follows:

(1) Four warnings shall be given before a citation is issued for a violation of § 82.06

regarding live, recorded or amplified music.

(2) One warning shall be given before a citation is issued for a violation of § 82.03 regarding noises prohibited at all times, except no warning shall be given for failure to discontinue an alarm in violation of § 82.03(H)

(3) One warning shall be given before a citation is issued to a person who is a responsible person hereunder but was not present at the property when the noise was made (such as a property owner, property manager, lessee or occupant of a property from which offending noise issued).

(4) No warnings shall be required with respect to any other violation of this chapter.

(D) Civil penalties. A violation of this chapter shall subject the violator to a civil penalty in the amount of \$100; provided, that subsequent violations within any 12-month rolling period shall subject the violator to the following civil penalties: a second violation in any rolling 12-month period shall subject the violator to a civil penalty in the amount of \$200, and a third and any subsequent violation in any rolling 12-month period shall result in the assessment of a \$500 civil penalty.

(E) Appeal of civil penalty. Appeal of a civil penalty amount may be made to the Town Manager or designee as provided at § 10.99 of this Code by filing an appeal stating with specificity the grounds for the appeal and the reasons the penalty should be reduced or abated. In considering the appeal, the Town Manager or designee may consider the following:

(1) the gravity of the violation;

(2) any action taken or not taken by the violator to avoid and/or correct the violation;

(3) the cost of the action to correct the violation; and

(4) any previous violations committed by the violator, on the same or different site.

~~(A)~~ Criminal penalties. A person committing more than two violations of this chapter during any rolling 12-month period shall also be guilty of a Class 3 misdemeanor and shall be fined not more than \$500, in addition to the civil penalties imposed.

~~(B)~~(F)

SECTION 2: This Ordinance shall be effective on the date it is adopted.

Adopted this ____th day of _____, _____.

Rennie Brantz, Mayor

ATTEST: _____

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Loretta Clawson, Mayor Pro-Tem
SECONDER:	Lynne Mason, Council Member
AYES:	Mason, Clawson, Furgiuele, Ulmer, Ashcraft

CONSIDERATION OF PROPOSED REVISIONS OF TITLE VII ("TRAFFIC CODE") OF THE TOWN CODE

Ms. Meade presented Council with revisions made to the traffic section of the Town Code, and noted that she did not change the term "boot/booted/booting" in this chapter in order to stay consistent with Chapter 73. Mr. Ward noted that there was a situation where staff had clear reason often times to tow vehicles from the Greenway parking lot off of Deerfield Road, and suggested that Council consider adding text to this chapter for repeat violators to be towed from that lot if they chose to park there for commuting purposes. He stated that the ability for staff to issue citations had not appeared to be an adequate deterrence and noted that staff had ordered two A-frame signs to warn potential commuters against parking there. Ms. Meade proposed changes to 72.08(D)(1) to authorize towing for violations of parking prohibitions in town parks, by striking the word "overnight" and substituting in its place "in violation of any of the above divisions (A) – (C) of this section." Council members agreed with the proposed change. Mr. Ward also announced that a wooden, split rail fence would also be installed with additional signage along the walking path to further deter commuters. Mr. Furgiuele noted that Water Street was misspelled as Waters Street in Schedule VIII B(1).

ORDINANCE # _____

**AN ORDINANCE TO REVISE TITLE VII ("Traffic Code")
OF THE TOWN OF BOONE CODE OF ORDINANCES**

WHEREAS, the Boone Town Council finds that it is appropriate and in the public interest to re-organize and revise the Town of Boone's ordinances related to traffic and parking; and

WHEREAS, the Boone Town Council is authorized to enact this Ordinance pursuant to its police powers as provided at, *inter alia*, Chapter 160A, §§ 174, 209, 296, and 300 of the North Carolina General Statutes;

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

SECTION 1. The following is hereby adopted as Chapters 70-72 and 74 of Title VII of the Code of Ordinances (Chapter 73 remains as it is):

TITLE VII TRAFFIC CODE

Chapter

- 70. GENERAL PROVISIONS**
- 71. BICYCLE SAFETY**
- 72. PARKING REGULATIONS**
- 73. TOWING AND BOOTING (*Unchanged*)**
- 74. TRAFFIC SCHEDULES**

CHAPTER 70: GENERAL PROVISIONS

Section

- 70.01 Definitions
- 70.02 Administration and enforcement
- 70.03 Accident investigation
- 70.04 Traffic regulation and pedestrian safety
- 70.05 Removal or alteration of traffic tickets
- 70.06 Responsibility of registered vehicle owners for violations;
applicability to town and emergency personnel
- 70.07 (Reserved)
- 70.08 Towing or booting to collect unpaid citations
- 70.09 Appeals for citations issued under this Title

§ 70.01 DEFINITIONS.

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

ADMINISTRATOR. The person or persons designated by the Town Manager to administer and enforce this title. Whenever this title authorizes or requires the Administrator to install a traffic-control device controlling parking or regulating the movement of traffic on, to or from a state-highway-system street and the installation of a device is in practice a function of the State Department of Transportation, the Administrator may discharge his or her responsibility by requesting the State Department of Transportation

to install the device.

DRIVER. The operator of a vehicle.

HIGHWAY or STREET. The entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purposes of vehicular traffic. The terms **HIGHWAY** or **STREET** or a combination of the two terms shall be used synonymously.

INTERSECTION. The area embraced within the prolongation of the lateral curb lines or, if none, then the lateral edge of roadway lines of two or more highways which join one another at any angle, whether or not one highway crosses the other. Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of the divided highway by an intersecting highway shall be regarded as a separate intersection. In the event that the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways shall be regarded as a separate intersection.

TOWN STREET. A street within the town that is not part of the state highway system but rather is owned and maintained by the town.

MOTOR VEHICLE. Every vehicle that is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. This shall not include mopeds, as defined in G.S. § 20-4.01(27)d1.

OPERATOR. A person in actual physical control of a vehicle which is in motion or which has an engine running. The terms **OPERATOR** and **DRIVER** and their cognates are synonymous.

PARKING or STANDING. A vehicle is parked or is permitted to stand when it is stopped and allowed to remain in a fixed location for any duration of time, whether attended or unattended. Except where the context clearly indicates otherwise, the limitations on parking and standing in this title apply only to locations within a street right-of-way. In no case do these limitations on parking and standing in this title apply only to locations within a street right-of-way. In no case do these limitations apply when a vehicle is stopped to avoid conflict with other traffic or in compliance with law or the directions result of an emergency or because the vehicle is disabled.

ROADWAY. The portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the shoulder. In the event a highway includes two or more separate roadways, the term.

ROADWAY, as used herein, shall refer to any roadway separately, but not to all roadways collectively.

SAFETY ZONE. A traffic island or other space that is officially set aside within a highway for the exclusive use of pedestrians and that is so plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.

STATE HIGHWAY SYSTEM STREET. A street within the town that is part of the state highway system. Whenever this title regulates parking or the movement of traffic on, to or from a state highway system street, then to the extent that concurrence by the State Department of Transportation is necessary (by passage of a concurring ordinance or otherwise) the regulation shall not become effective until the concurrence is obtained. The following streets are part of the state highway system:

Deck Hill	Poplar Grove Road
Rivers Street	Deerfield Road
U.S. Highway 421 (East and West King Streets)	U.S. Highway 321
Water Street	Junaluska Road
N.C. Highway 105	Summerplace Drive
U.S. Highway 321	Fairway Drive
N.C. Highway 194	Winkler's Creek Road
High School Drive	Deck Hill Road
Academy Street	University Drive
Locust Street	Kellwood Drive
Brown Street	Pinnacle Drive
Upper half of Eastview Drive	Daulph Blan Street

STREET. See **HIGHWAY**.

TRAFFIC-CONTROL DEVICE. Any sign, signal, marking or other device placed or erected pursuant to a lawfully adopted ordinance and designed to regulate, warn, guide or control traffic.

TRAFFIC-CONTROL SIGNAL. Any device designated to regulate, guide or control traffic through the use of alternating or flashing lights or by some other mechanical means.

VEHICLE. Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon fixed rails or tracks; provided that, for the purposes of this title, bicycles shall be deemed **VEHICLES** and every rider of a bicycle upon a highway shall be subject to the provisions of this title applicable to the driver of a **VEHICLE**, except those which, by their nature, can have no application. This term shall not include a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment or who uses the device for mobility enhancement, is suitable for use both inside and outside a building, including on sidewalks and is limited by design to 15 mph when the device is being operated by a person with a mobility impairment or who uses the device for mobility enhancement. This term shall not include an electric personal assistive mobility device, as defined in G.S. § 20-4.01(7)(a).

§ 70.02 ADMINISTRATION AND ENFORCEMENT.

It is the duty of the town to enforce the provisions of this title and the state motor vehicle laws.

§ 70.03 ACCIDENT INVESTIGATION.

It is the duty of the town's law enforcement officers to investigate traffic accidents and to obtain identification and insurance information of those persons apparently guilty of violations of this title or state motor vehicle laws causing or contributing to those accidents. The owner or operator of any ambulance must arrange for the County Emergency Communications Center to be notified before leaving to answer a call to the scene of a traffic accident.

§ 70.04 AUTHORITY OF LAW ENFORCEMENT OFFICERS TO PROTECT TRAFFIC SAFETY

- (A) In the event that it becomes necessary to protect the safety of motorists, bicyclists or pedestrians, the town's law enforcement officers may direct traffic as required and may place temporary official traffic-control devices without regard to the other provisions of this chapter. No person may refuse to comply with a lawful order of a law enforcement officer when the order is given under the authority of this section.
- (B) The town's law-enforcement officers are authorized to arrange the towing and storage of any vehicle parked or left standing in any area designated as a fire lane.
- (C) The town's law-enforcement officers are authorized to arrange the removal to the shoulder of the roadway or other suitable place, or the towing and storage in a safe place, of any vehicle parked or left standing such that any part of the vehicle is within the main-traveled portion of any public roadway, or interfering with the regular flow of traffic, or otherwise constitutes a hazard, within the town limits.
- (D) The vehicle owner shall be liable for any costs incurred in the removal, storage, and subsequent disposition of a vehicle, cargo, or other personal property under the authority of state law and/or this title.

Authority: G.S. §§ 20-162 and 20-162, G.S. §160A-301

§ 70.05 REMOVAL OR ALTERATION OF TRAFFIC TICKETS.

- (A) It shall be unlawful to remove a traffic ticket from a vehicle or to permit it to be removed, except for the purpose of answering the charge for which it was issued.

(B) It shall be unlawful to alter a traffic ticket and no person may have in his or her possession an unlawfully altered ticket.

**§ 70.06 RESPONSIBILITY OF REGISTERED VEHICLE OWNERS FOR VIOLATIONS;
APPLICABILITY TO TOWN AND EMERGENCY PERSONNEL.**

- (A) Except as provided in division (C) below, it shall be unlawful for any person to cause, allow or permit a vehicle registered in the name of or operated by that person to be parked, stopped, left standing or operated in any manner in violation of the provisions of this title.
- (B) Notwithstanding the preceding subsection, the registered owner of a vehicle that has been leased or rented to another person or company shall not be liable for a violation of a provision of Chapter 72 of this title if, after receiving notification of the civil violation within 90 days of the date of occurrence, the owner, within 30 days thereafter, files with the officials or agents of the municipality an affidavit including the name and address of the person or company that leased or rented the vehicle. If notification is given to the owner of the vehicle after 90 days have elapsed from the date of the violation, the owner is not required to provide the name and address of the lessee or renter, and the owner shall not be held responsible for the violation.
- (C) Town employees and authorized emergency responders shall not be considered in violation of a provision of this title to the extent their action is reasonably necessitated by their duties as an employee of the town and/or in the course of reasonable response to an emergency. This provision shall not relieve a town employee or the driver of an authorized emergency vehicle from the duty to operate a motor vehicle with due regard for the safety of all persons and in compliance with all other applicable laws, regulations, and policies; nor shall this provision protect the driver from the consequences of such driver's reckless disregard for the safety of others.

§ 70.07 (RESERVED).

§ 70.08 TOWING OR BOOTING TO COLLECT UNPAID CITATIONS.

Once a vehicle accumulates five citations issued under this title and the vehicle owner/operator fails to pay these citations within five days of the issuance of the fifth citation, the vehicle may be booted.

- (A) A brightly colored adhesive sticker will be placed in a conspicuous location on the windshield of the booted vehicle stating that the vehicle is in violation of the parking policy. The sticker will contain information concerning where and when payment can be made.
- (B) The owner/operator of the vehicle will be charged a fee of \$50 to remove the boot in addition to his or her outstanding citations.
- (C) If no contact is made by the owner/operator of the vehicle by 4:00 p.m., the vehicle may be towed. The tow company shall not release the vehicle until all outstanding penalties and late-payment penalties are paid.
- (D) Once a vehicle is towed, the owner/operator of the vehicle will be responsible for all outstanding citations, the boot removal fee of \$50 and any towing and/or storage fees assessed by the towing company.
- (E) The owner of the vehicle or any person entitled to claim possession of the vehicle may appeal the towing of the vehicle pursuant to the post-towing procedures set forth in G.S. §§ 20-219.9 through 20-219.14. If the violator prevails in his or her judicial appeal of the towing, the town shall reimburse the violator for the fees and charges which he or she was required to prepay, as well as for any court costs incurred.

§ 70.09 APPEALS FOR CITATIONS ISSUED PURSUANT TO THIS TITLE.

- (A) Any person who wishes to appeal a citation issued by a town law enforcement officer pursuant to this title may do so within ten (10) calendar days of the issuance of the citation. This appeal shall

be made to the Chief of Police or his or her designee.

- (B) Any person who wishes to appeal a citation issued by town parking enforcement personnel pursuant to this title may do so by delivering a written notice of appeal to the Boone Town Hall located at 567 West King Street, which written notice must be delivered or post-marked within ten (10) days of the issuance the citation and shall be heard by the Parking Committee of the Downtown Boone Development Association. The Parking Committee shall be composed of six persons. A quorum of three committee members is required to reach a decision on any appeal. The Parking Committee will meet every two weeks or as needed.

CHAPTER 71: BICYCLE SAFETY

Section

71.02 Special provisions for non-motorized wheeled vehicles, including bicycles, skateboards and the like

71.03 Bicycle equipment and operating regulations

71.99 Penalties

§ 71.01 SPECIAL PROVISIONS FOR NON-MOTORIZED WHEELED VEHICLES, INCLUDING BICYCLES, SKATEBOARDS AND THE LIKE.

- (A) *Skateboards, skates, and similar devices.* The following provisions govern the operation of non-motorized vehicles other than bicycles, including but not limited to roller skates, in-line skates, skateboards, coasters, scooters, and toy vehicles (collectively referred to hereafter as "skating device") on any public right-of-way or on any property open to the public or used by the public for pedestrian or vehicular purpose:
- (1) No person may ride a skating device upon any roadway, except while crossing a street at a crosswalk, except that a person may ride upon a roadway upon all of the following conditions:
 - (a) The roadway has a posted speed limit of 20 mph or less;
 - (b) The road is not a through street; and
 - (c) The rider yields to all vehicular traffic and pedestrians.
 - (2) No person riding a skating device may attach himself or herself or the skating device to any moving motor vehicle.
 - (3) A person may ride a skating device upon a sidewalk only upon the following conditions:
 - (a) The rider must yield to all pedestrians. Pedestrians shall at all times have the right of way upon a sidewalk. In the case of any doubt of safe and untouched passage by a pedestrian, a person riding a skating device shall stop or dismount such device until the pedestrian passes.
 - (b) Riding a skating device is prohibited on the sidewalks adjacent to King Street from Water Street to Appalachian Street.
- (B) *Bicycles.* The following provisions govern the operation of bicycles on any public right-of-way, including roads, sidewalks, and greenways.
- (1) Helmets and other equipment must be used as provided at § 71.11 herein.
 - (2) Bicycles may only be ridden on public sidewalks if:
 - (a) The bicyclist is a minor, or is an adult transporting a minor on the bicycle consistent with the requirements of § 71.11; or
 - (b) The sidewalk is adjacent to a road that the bicyclist reasonably considers unsafe for bicycling.
 - (3) Bicyclists riding upon a public sidewalk adjacent to a street with sidewalks available on both sides of the street shall ride in the same direction as the immediately adjacent lane of motor

vehicle traffic where it is reasonably possible and practical to do so, taking into consideration the intended route of the bicyclist, the availability of safe alternatives, and other relevant considerations. Warnings may be issued for violations of this subsection, but a citation may be issued only where the bicyclist has demonstrated repeated and reckless disregard for his or her safety or the safety of others in the course of violating this provision.

- (4) Bicyclists must yield to pedestrians. Pedestrians shall at all times have the right of way upon a sidewalk or crosswalk. In the case of any doubt of safe and untouched passage by a pedestrian, a bicyclist shall stop or dismount until the pedestrian has passed.
 - (5) Bicyclists riding upon a sidewalk against the direction of the motor vehicle traffic in the immediately adjacent lane of the street must yield to motor vehicles at crosswalks. Bicyclists must yield whether the motor vehicle is entering onto the adjacent street from an intersecting driveway or road, or exiting that adjacent street onto an intersecting road or driveway.
 - (6) Bicycling is prohibited on the sidewalks adjacent to King Street from Water Street to Appalachian Street.
- (C) A bicyclist may not carry any other person upon the handlebars or any other part of the bicycle not designed for carrying passengers.
- (D) The limitations stated in this section shall not apply to bicycles operated by the town's police officers who are engaged in the pursuit or apprehension of violators. This exemption shall not, however, protect the driver of any vehicle from the consequence of a reckless disregard of the safety of others.

§ 71.02 BICYCLE EQUIPMENT AND OPERATING REGULATIONS.

- (A) *Preamble.* This section is enacted because:
- (1) The major cause of death and permanent disability in bicycle accidents is head injury;
 - (2) Helmets and child carrying devices which meet nationally recognized standards have been demonstrated to significantly reduce the numbers of head injuries in accidents;
 - (3) Many cyclists do not use the appropriate equipment; and
 - (4) Incentives are necessary to encourage bicyclists to wear helmets.
- (B) *Regulations.*
- (1) Every person operating a bicycle on a public right-of-way or on any property open to the public or used by the public for pedestrian or vehicular purposes shall ride on a permanent and regular attached seat.
 - (2) Every person operating a bicycle on a public right-of-way or on any property open to the public or used by the public for pedestrian or vehicular purposes shall wear a helmet of good fit, fastened securely and:
 - (a) Meeting ANSI Z90.4 standards;
 - (b) The Snell Memorial Foundation's 1984 Standard for Protective Headgear for Use in Bicycling;
 - (c) ASTM bicycle helmet standards; or
 - (d) Subsequent amendment(s) to the bicycle helmet standards described above.
 - (3) No person operating a bicycle on a public right-of-way or on any property open to the public or used by the public for pedestrian or vehicular purposes shall allow anyone four years old or younger and weighing 40 pounds or less to ride as a passenger on the bicycle, other than in a seat which shall adequately retain the passenger in place and protect the passenger from the bicycle's moving parts; or else astride a regular seat of a tandem bicycle.
 - (4) No person operating a bicycle on a public right-of-way or on any property open to the public or used by the public for pedestrian or vehicular purposes shall allow anyone to ride as a passenger unless the passenger is wearing a helmet as defined in division (B)(2) above or else in an enclosed trailer or other device which meets or exceeds current nationally recognized standards of design and manufacture for the protection of the passenger's head from impacts in an accident without the need for a helmet.

§ 71.99 PENALTIES

A violation of any provision of this chapter shall constitute an infraction and the offender shall be subject

to a fine of \$50, except that a first violation of § 71.02(B)(2), (3) or (4) shall be dismissed if the person charged submits proof within ten days that equipment meeting the standards in § 71.02(B)(2), (3) or (4) has been acquired for use by the operator or passenger.

Authority: G.S. § 14-4(b)

CHAPTER 72: PARKING REGULATIONS

Section

- 72.01 Parking prohibited in certain locations
- 72.02 Parking prohibited for certain purposes
- 72.03 Snow emergency zones
- 72.04 Loading and unloading zones
- 72.05 School loading zones
- 72.06 Commercial loading zones
- 72.07 Public carrier loading zones
- 72.08 Parking in town parks
- 72.09 Using slugs or substitutes, tampering with or injuring parking meters

72.99 Penalties.

§ 72.01 PARKING PROHIBITED IN CERTAIN LOCATIONS.

(A) In addition to those locations where parking is prohibited under the state motor vehicle laws, parking is prohibited in the following locations. No traffic-control devices are required. No person may park any vehicle or permit it to stand in any or the following locations:

- (1) On a sidewalk or on the space between the sidewalk and the curb;
- (2) On any alley or private road in a manner or under conditions as to leave available less than ten feet of the width of the roadway for the free movement of vehicular travel or to block the driveway entrance to any abutting property;
- (3) On a street other than parallel with the edge of the roadway, headed in the direction of traffic, and with the curbside wheels of the vehicle within 18 inches of the curb or edge of the roadway, unless authorized to do otherwise by appropriate signage or parking space markings;
- (4) In front of a gate or other accessway (whether closed or opened) that provides access to a town greenway, town park or other town property; and
- (5) On any town-owned or town-operated property, other than within a marked-off parking space.
- (6) In a leased parking space without a leased parking sticker;
- (7) In any metered space without making proper payment therefor;
- (8) In any space in a town-owned parking lot, garage, or other parking facility without making proper payment therefor;
- (9) In any marked space designated by signage for certain purpose(s) and/or period(s) or duration of time for parking other than for the purpose, period, and/or duration of time authorized;
- (10) In a marked off parking space in a manner that the vehicle is not entirely within the parking space as marked off.

(B) The Administrator may install no-parking signs, yellow curb markings or other traffic-control devices

to indicate where parking and standing is prohibited as stated in division (A) above, but enforcement of the provisions of this section is not dependent on the installation of the devices.

- (C) Parking time limits shall be enforced as indicated by signage, installed parking meters or parking lot pre-pay stations.
- (D) Whenever, pursuant to division (B) or (C), the Administrator has installed signs, yellow pavement markings or other traffic-control devices clearly indicating that parking or standing within a specified area is prohibited or is allowed only at certain times or for a certain duration, no person may park any vehicle or permit it to stand contrary to the directions of those traffic-control devices.
- (E) The Administrator may mark any street where parking is permitted with lines that indicate the parking space for vehicles and no person may park any vehicle outside the lines.
- (F) The prohibitions in this section shall not apply to emergency and public service vehicles whose operators are performing services for which they are responsible.
- (G) A vehicle parked in violation of one or more of the provisions of this section may be towed without notice to the owner, and whether or not towing is indicated by signage, if, in the discretion of Police or Public Works Department personnel, the vehicle presents a threat to public safety, for example, by hindering rescue vehicle access, blocking traffic, or increasing the chances of a traffic accident.

§ 72.02 PARKING PROHIBITED FOR CERTAIN PURPOSES.

No person may park any vehicle or permit it to stand upon any public street, public sidewalk or other public property, or on town-owned property for any of the following principal purposes:

- (A) Displaying it for sale, except foreclosure and judicial sales;
- (B) Washing, greasing, changing tires or repairing the vehicle, except to the extent necessitated by an emergency;
- (C) Storing it;
- (D) Advertising; and
- (E) Operating a commercial enterprise out of a parked vehicle, except with the express advance permission of the town. By way of illustration and without limiting the foregoing, vehicles may not be parked for purposes of selling food or other items from the vehicle. The town may provide exemptions to this general rule for special events, such as street festivals or events held at the Daniel Boone Park, and the like, but any such exemption shall require advance written permission granted by the town.

§ 72.03 SNOW EMERGENCY ZONES.

- (A) The Administrator shall establish snow emergency zones and shall install appropriate traffic-control devices to give clear notice that parking within the zones is not permissible during the stated hours or times indicated during periods of snow accumulation.
- (B) Whenever a snow emergency zone is designated and marked by traffic-control devices, no person may park any vehicle within the zones between the hours or during the periods specified in the traffic-control devices.

§ 72.04 LOADING AND UNLOADING ZONES.

Notwithstanding any other provision of this title, whenever streets or portions of streets are designated as vehicle loading and unloading zones in accordance with the provisions of this title, parking and standing are permitted in those locations, but only in accordance with the provisions of this title.

§ 72.05 SCHOOL LOADING ZONES.

Whenever a school loading zone is designated and clearly marked by traffic-control devices, no person

may park any vehicle or permit it to stand in any zone for any purpose other than the expeditious loading or unloading of school passengers, and then only for a period not to exceed ten minutes.

§ 72.06 COMMERCIAL LOADING ZONES.

Whenever a commercial loading zone is designated and marked by traffic-control devices, no person may park any vehicle there or permit it to stand in any zone for any purpose other than the expeditious loading or pickup of materials and goods, or unloading and delivery, and then only for a period not to exceed 30 minutes.

§ 72.07 PUBLIC CARRIER LOADING ZONES.

- (A) Whenever a bus stop or taxicab stand is designated and marked by traffic-control devices, no person may park any vehicle other than a bus or a taxicab, respectively, in any zone so designated and marked.
- (B) Whenever a bus stop or taxicab stand is necessary in a particular location to accommodate the needs of those requiring access to a public carrier, and a zone is consistent with the necessary free flow of traffic and the public safety, the Administrator may install appropriate traffic-control devices to give clear notice that parking or standing within those locations, except for buses and taxicabs, respectively, is prohibited.
- (C) The operator of a bus shall not stop the vehicle upon any street or at any place for the purpose of loading or unloading passengers or their baggage, except at a bus stop designated in accordance with this section.

§ 72.08 PARKING IN TOWN PARKS.

- (A) Parking overnight is prohibited in all town parks.
- (B) Parking is prohibited in Junaluska Park between the hours of 6:00 a.m. and 12:00 p.m. on the third Saturday of each month, and at such other times as may be noticed by posted warning signs, except that this prohibition does not apply to members of the American Legion and their guests. This parking limitation is required so that the parking area is available to American Legion members and their guests during their meeting times per the terms of the town's lease of the park.
- (C) Persons may park vehicles at town parks only for purposes of using the park facilities. Parking by commuters is prohibited.
- (D) Violators of any of the provisions of this section may be issued warnings or citations, or be subject to towing. Towing is authorized from any town park parking area where:
 - (1) The Town Manager, in his or her discretion, has caused signs to be posted warning that vehicles parked ~~overnight~~ in violation of any of the above divisions (A) – (C) of this section are subject to towing. Such signs shall substantially comply with the visibility requirements set forth at § 73.03(A), and shall direct those subject to towing to call the Police Department; or
 - (2) The town has provided at least eight hours advance written notice that the vehicle will be towed, by means of written notice placed on the vehicle as provided at § 73.03(C), except that the requirements of § 73.03(C)(2)-(4) shall not apply, and instead, the notice shall direct the violator to call the Police Department.

§ 72.09 USING SLUGS OR SUBSTITUTES, TAMPERING WITH OR INJURING PARKING METERS.

- (A) It shall be unlawful to deposit a slug or other substitute for a coin of the United States or city-issued parking meter token in any city parking meter.

- (B) It shall be unlawful to deface, injure, tamper with, open or willfully break, destroy, or impair the usefulness of any city parking meter, except that duly authorized persons may make necessary collections and repairs.

§ 72.99 PENALTIES

- (A) *Criminal penalties.* A violation of § 72.09 shall constitute a Class 3 misdemeanor and shall subject the offender to a fine of up to \$500.
- (B) *Civil penalties.* Except as specifically provided at division (A) of this section, a violation of this chapter is a civil violation only and shall not constitute a criminal offense as otherwise provided per G.S. 14-4.
1. A violation of any provision of §§ 72.01(A)(7) through (A)(10) of this chapter shall subject the violator to a penalty of \$12.
 2. A violation of any provision of §§ 72.01(A)(1) through (A)(6) shall subject the violator to a penalty of \$20.
 3. A violation of any provision of §§ 72.02 through 72.08 shall subject the violator to a penalty of \$30.00

Civil penalties are imposed pursuant to this chapter in order to help fund the town's enforcement of its traffic and parking regulations for the benefit of the town's residents, businesses and visitors, and not to punish violators. All civil penalties imposed pursuant to this division (B) and paid to the town as herein provided shall be paid into the General Fund of the town and used to fund the town's traffic and parking enforcement operations.

[CHAPTER 73 remains unchanged]

CHAPTER 74: TRAFFIC SCHEDULES

Section 74.01 Adoption of traffic schedules

Schedule

- I. Stop intersections with stop lights
- II. Intersections with flashing red or yellow lights
- III. Stop and through streets
- IV. Four-way stops
- V. One-way streets
- VI. Yield intersections
- VII. Restricted turns
- VIII. Truck Weight and Route Limitations
- IX. Speed limits

74.01 ADOPTION OF TRAFFIC SCHEDULES

Pursuant to its authority to regulate streets and traffic pursuant to North Carolina General Statutes Chapter 20 and Chapter 160A, Article 15, and in the interests of public safety and welfare, the Town

Council adopts the following traffic schedules.

SCHEDULE I. STOP INTERSECTIONS WITH STOP LIGHTS.

The Administrator shall erect or install mechanical stop lights to regulate vehicular and pedestrian traffic at the following intersections and locations. The effect of the stop lights on vehicles and pedestrians shall be as provided in G.S. §§ 20-158 and 20-172.

Street	At Intersection With
Dale Street/Shadowline Drive	State Farm Road
Doctors Drive	Deerfield Road
Meadowview Drive	Greenway Road/Leola Street
New Market Boulevard	Hardin Park School
Old East King Street	Go Pioneers Drive
State Farm Road	Boone Heights Drive
	Shadowline Drive
	Furman Road

SCHEDULE II. INTERSECTIONS WITH FLASHING RED OR YELLOW LIGHTS.

The Administrator shall erect or install mechanical red or yellow blinking or flashing lights as provided below at the indicated intersections and other locations. The effect of the blinking or flashing red or yellow lights on vehicles and pedestrians shall be as provided in G.S. §§ 20-158 and 20-172.

Flashing Red Intersections
Faculty Street and Highland Avenue
Longvue Drive and Deerfield Road
Flashing Yellow Intersections
Deerfield Road and Longvue Drive

SCHEDULE III. STOP AND THROUGH STREETS.

The second-named street in the following list of intersections is hereby designated as a main traveled or through street and the Administrator shall erect stop signs on the first named street at the entrance to the main traveled or through street. The effect of the stop signs on vehicles and pedestrians shall be as provided in G.S. §§ 20-158 and 20-172.

STOP STREET	THROUGH STREET
Appalachian Drive	Forest Hill Drive
Arbor Lane	Tracy Circle
Arrowhead Court	Market Hills Drive
Azalea Drive	Highway 105 Extension
Bear Trail	Grand Boulevard
	Eastview Drive
Berkley Avenue	Beverly Heights Avenue
	State Farm Road
Beverly Heights Avenue	Highway 105 Extension
Birch Street	Doctors Drive
	Furman Road
	Kimberly Drive

Blairmont Drive	Deerfield Road
Blanwood Drive	Horn-in-the-West Drive
	Woodland Drive
Blue Ridge Avenue	Buena Vista Drive
	Watauga Drive
Boone Creek Drive	Winklers Creek Road
Boone Docks Street	Meadowview Drive
Breckonshire Drive	Fairway Drive
Brookside Drive	Farthing Street
Brown Street	Howard Street
	Farthing Street
Buena Vista Drive	Tracy Circle
Burrell Street	Rivers Street
	North Street
Carolina Avenue	Summit Street
Casey Lane	New River Hills
	Chestnut Drive
Castle Heights	Farthing Street
	New River Heights
	New River Hills
Cecil Miller Road	Old E King Street
Chandy Street	Poplar Hill Drive
Charles Street	Queen Street
Chase Hill Drive	Kellwood Drive
Cherokee Street	Grove Street
	Eastbrook Drive
Cherry Drive	W King Street
Cherrybrook Lane	Cherry Drive
Chestnut Drive	E King Street
	Junaluska Road
Church Street	North Street
Clawson Street	Perkinsville Drive
Clement Street	Oak Street
	Howard Street
Coffey Street	W King Street
	Old E King Street
Cole Street	Cherry Drive
Councill Street	Tracy Circle
Crest Drive	Daniel Boone Drive Extension
Daniel Boone Drive	Daniel Boone Drive
Daniel Boone Drive Extension	Old E King Street
Delmar Street	Furman Road
Doctors Drive	Highway 105
	Poplar Hill Drive
Dogwood Road	Park Street
Dotson Drive	Pheasant Ridge
Dove Circle	Hunting Road
Eastbrook Drive	Appalachian Drive
Eastridge Drive	Hunting Road
Eastview Drive	Glendale Drive
	Tracy Circle
Edgewood Drive	Hillandale Drive
Edora Street	

Faculty Street	Highland Avenue
	Highway 105
Faculty Street Extension	Highway 105
	Winklers Creek Road
Fairview Drive	Dogwood Road
Farthing Street	E King Street
Ferncliff Road	Stadium Drive
Franklin Drive	Dogwood Road
Furman Road	Longvue Drive
Gladys Street	Charles Street
Gragg Street	Queen Street
Grand Boulevard	Grand Boulevard
	W King Street
Grandview Heights	Poplar Grove Road
Green Heights	Green Heights
	Queen Street
Green Street	Old Bristol Road
	W King Street
Grove Street	Perkinsville Drive
Hamby Alley	Coffey Street
Hampton Drive	Poplar Hill Drive
Hawthorne Lane	Tanglewood Drive
Hayes Street	Hill Street
Hemlock Drive	Stadium Drive
Hidden Valley Circle	Chestnut Drive
Highland Avenue	Highway 105
	Poplar Hill Drive
Highland Park Lane	Highland Avenue
Hill Street	Rivers Street
Hillandale Drive	Highland Avenue
Hillcrest Circle	Farthing Street
Hillside Drive	E King Street
	Woodland Drive
Hodges Street	Blowing Rock Road
	Longvue Drive
Horn Avenue	Horn-in-the-West Drive
	Highway 105 Extension
Horn-in-the-West Drive	Blowing Rock Road
	E King Street
	Oak Street
Horseshoe Drive	Poplar Hill Drive
	Poplar Hill Drive
Howard Street	Appalachian Street
	College Street
	Depot Street
Hunters Point	Hunting Hills Lane
Hunting Road	Eastview Drive
Industrial Park Drive	Brookshire Road
Iris Lane	Orchard Street
Ivy Drive	Greenway Road
	Meadowview Drive
Keystone Drive	Poplar Hill Drive

Kimberly Drive	Deerfield Road
	Furman Road
Laurel Drive	Highway 105 Extension
	State Farm Road
Linney Street	Queen Street
Longvue Drive	Blowing Rock Road
	Deerfield Road
Mac Street	E King Street
	Tracy Circle
Maple Drive	Chestnut Drive
Market Court	Market Hills Drive
Market Hills Drive	New Market Boulevard
Martin Luther King Jr. Street	State Farm Road
Mary Street	Deerfield Road
	W Virginia Street
Maryah Drive	Highway 105
Meadowview Drive	Blowing Rock Road
	Blowing Rock Road
Megan Lane	Appalachian Drive
Moretz Drive	Rivers Street
Morningside Drive	Daniel Boone Drive
N Hampton Road	Highway 421 S
New Market Boulevard	Highway 194
North Ridge Circle	Market Hills Drive
	North Ridge Circle
North Street	N Depot Street
	N Water Street
Oak Street	Clement Street
	E King Street
	Horn-in-the-West Drive
	Pine Street
Oakdale Drive	Highway 105 Extension
	Laurel Drive
Oakwood Drive	Appalachian Drive
	Eastridge Drive
Olancho Avenue	Beverly Heights Avenue
	VFW Drive
Old Bristol Road	W King Street
	W King Street
Orchard Street	Grand Boulevard
	Grand Boulevard
Overlook Drive	Laurel Drive
Owens Drive	Daniel Boone Drive
Palmer Drive	Blairmont Drive
Park Street	Queen Street
Perkins Street	Perkinsville Drive
Perkinsville Drive	Grove Street
	Grove Street
	Highway 421 S
	Jefferson Road
	Terrace Lane
	Terrace Lane

Perry Street	New Market Boulevard
Pheasant Ridge	Quail Drive
Pine Street	Oak Street
Poplar Hill Drive	Highland Avenue
Poplar Summit	Highway 105
Quail Drive	Dogwood Road
Queen	Highway 105 Extension
	Grand Boulevard
	N Depot Street
	N Depot Street
	N Water Street
	N Water Street
	Straight Street
Racquet Road	Straight Street
Realty Row	State Farm Road
Rhododendron Lane	Highway 105 Extension
Ridgewood Drive	Appalachian Drive
Robin Lane	Queen Street
Rogers Drive	Dove Circle
Russell Drive	Meadowview Drive
Sheridan Avenue	Poplar Grove Road
Skyview Drive	Beverly Heights Avenue
Southview Drive	Woodland Drive
Spring Street	Blairmont Drive
Spruce Street	Dogwood Road
Stadium Drive	Old E King Street
Straight Street	Dogwood Road
	Queen Street
Summer Place Drive	W King Street
Summit Street	Fairway Drive
Sunnyside Drive	Junaluska Road
Sunset Drive	State Farm Road
Tanglewood Drive	Highway 105 Extension
Temple Drive	Stadium Drive
Tracy Circle	High School Drive
	Council Street
Tremont Drive	Edgewood Drive
	Church Street
University Circle	N Depot Street
	Appalachian Drive
University Hall Drive	Appalachian Drive
VFW Drive	Blowing Rock Road
W Grandview Heights	State Farm Road
W Hilltop Drive	Grandview Heights
W Virginia Street	Cecil Miller Road
Wallace Circle	Mary Street
	Orchard Street
Watauga Drive	Orchard Street
Westbrook Drive	Farthing Street
Wey Street	Cherry Drive
Whitener Drive	Clement Street
	Hill Street

Wickham Square	Fieldstream Drive
Wildwood Lane	Forest Hill Drive
Wind Walker Court	Market Hills Drive
Windy Drive	Hillside Drive
Winklers Meadow	Oak Street
Wintergreen Lane	Winklers Creek Road
Wood Circle	Faculty Street
Woodland Drive	Highland Avenue
Wyn Way	E King Street
Yosef Drive	Horn-in-the-West Drive
Zeb Street	Pine Street
	Junaluska Road
	Brookshire Road
	Highway 421 S
	Leola Street
	Meadowview Drive

SCHEDULE IV. FOUR-WAY STOPS.

The intersections of the following streets are declared to be four-way stop intersections and the Administrator shall erect stop signs on each street at the entrance to the intersection. The effect of ~~the~~ a stop sign on vehicles and pedestrians shall be as provided in G.S. §§ 20-158 and 20-172.

Intersection
North Depot Street and Queen Street
South Depot Street and Howard Street
Highland Avenue and Faculty Street

SCHEDULE V. ONE-WAY STREETS.

The following streets are hereby designated one-way streets as indicated below and the Administrator shall install appropriate traffic-control devices at every intersection clearly indicating the direction of unlawful traffic movement.

Street	Lawful Direction of Travel
Bear Trail	Grand Boulevard to Eastview Avenue
Linney Street	From West King Street to Queen Street
Oak Street	From Pine Street to Horn in the West Drive
Queen Street	From North Depot Street to North Water Street on north side of median
Queen Street	From North Water Street to North Depot Street on south side of median
Howard Street	From South Depot Street to Burrell Street
Hamby Alley	From College Street to Coffey Street

SCHEDULE VI. YIELD INTERSECTIONS.

The second named street in the following list of intersections is hereby designated as a main traveled or through street and the Administrator shall erect yield right-of-way signs on the first named street at the entrance to the main traveled or through street. The effect of the yield right-of-way signs on vehicles and pedestrians shall be as provided in G.S. §§ 20-158.1 and 20-160.1.

<i>Yield Street</i>	<i>Through Street</i>
Crest Drive	Crest Drive (dead end)
Daniel Boone Drive	Delmar Street
College Street	Howard Street
Howard Street	College Street
Hawthorne Lane	Tanglewood Drive
Horn Avenue	Horn-in-the-West Drive
Longvue Drive	Highway 321
Cherry Drive	Eastbrook Drive
Sheridan Avenue	VFW Drive

SCHEDULE VII. RESTRICTED TURNS.

The following restrictions on turning shall henceforth be in effect at the indicated locations and the Administrator shall install appropriate traffic-control devices that clearly and adequately notify drivers of the turns required or prohibited. The effect of the turn restrictions on vehicles and pedestrians shall be as provided in G.S. §§ 20-153.

<i>Type of Turn</i>	<i>Intersection</i>
No left turn	Faculty Street and Highway 105
	Faculty Extension and Highway 105
Left turn only from left lane of	Horn Avenue at Horn-in-the-West Drive
Right turn only from right lane of	Horn Avenue at Horn-in-the-West Drive

SCHEDULE VIII. TRUCK WEIGHT AND ROUTE LIMITATIONS.

(A) *Weight limitations.* Whenever the Administrator installs a traffic-control device clearly stating or indicating that the vehicles are not permitted on a street or any portion thereof, no person may drive any vehicle with multiple rear axles or any single rear axle vehicle with a gross vehicle weight rating (GVWR) of 20,000 pounds or more, on that street or designated portion thereof unless the vehicle's destination or point of origin is on that street, within the corporate limits of the town and there is no alternative street to access the point of origin or destination. Municipal vehicles, public utility vehicles and heating fuel delivery vehicles are exempt from this restriction. The following streets shall be weight-restricted upon installation of traffic-control devices:

Eastbrook Drive
Westbrook Drive
Hunting Hills Lane

(B) *Route limitations.* The town has serious traffic problems within its corporate limits. In particular, the town has a problem with tractor and trailer trucks traveling through the downtown business district. The purpose of this provision is to regulate the movement of large trucks so as to facilitate traffic flow within the town.

- (1) Trucks having more than two axles are prohibited from using U.S. Highway 421 between the 105 Extension and Burrell/North Water Street.
- (2) Trucks having more than two axles shall be allowed to use the following streets: beginning on U.S.

Highway 421-221 (East King Street) at 105 Extension, then along U.S. Highway 221 (N.C. 105 Extension) to its intersection with U.S. Highway 321, then along N.C. Highway 105 to S.R. 1107 (known locally as N.C. 105 Bypass), then along S.R. 1107 to U.S. 321-421 (West King Street) west of Boone.

- (3) Division (A) above shall not apply to trucks having more than two axles making local deliveries to customers located within the prohibited area described in division (A) above.
- (4) U.S. Highway 421 beginning at 105 Extension and continuing on West King Street shall be designated as U.S. 421 Business.

SCHEDULE IX. SPEED LIMITS.

The following speed limits shall be applicable to the following streets as indicated and the Administrator shall install appropriate traffic-control devices clearly indicating the established speed limit. The effect of these speed limits shall be as provided in G.S. §§ 20-141 and 20-141.1.

15 miles per hour limit

Arrowhead Court	Fairview Drive	Market Court	Tremont Drive
Bear Trail	Ferncliff Road	Maryah Drive	W Grandview
Breckonshire Drive	Franklin Drive	Megan Lane	Heights
Brown Street	Gragg Street	N Hampton Road	Westridge Lane
Casey Lane	Green Heights	Overlook Drive	Wey Street
Castle Heights	Hampton Drive	Poplar Summit	Whitener Drive
Chandy Street	Hawthorne Lane	Postal Street	Wickham Square
Chase Hill Drive	Hayes Street	Realty Row	Wind Walker Court
Church Street	Hill Street	Ridgewood Drive	Winklers Meadow
Cole Street	Horseshoe Drive	Southview Drive	Wyn Way
College Street	Keystone Drive	Spring Street	
Dotson Drive	Mac Street	Spruce Street	
Edora Street	Maple Drive	Summer Place Drive	

20 miles per hour limit

Appalachian Drive	Cherokee Street	Edgewood Drive	Hodges Street
Appalachian Street	Cherry Drive	Faculty Street	Horn Avenue
Arbor Lane	Cherrybrook Lane	Extension	Horn-in-the-West
Azalea Drive	Chestnut Drive	Farthing Street	Drive
Berkley Avenue	Clawson Street	Forest Hill Drive	Howard Street
Beverly Heights	Clement Street	Furman Road	Hunting Hills Lane
Avenue	Coffey Street	Gladys Street	Hunting Road
Birch Street	Councill Street	Glendale Drive	Iris Lane
Blairmont Drive	Crest Drive	Grand Boulevard	Ivy Drive
Blanwood Drive	Dale Street	Grandview Heights	Johnson Street
Blue Ridge Avenue	Daniel Boone Drive	Green Street	Kimberly Drive
Boone Creek Drive	Daniel Boone Drive	Greenway Road	Laurel Drive
Boone Docks Street	Extension	Grove Street	Leola Street
Boone Heights Drive	Deerfield Road	Hamby Alley	Linney Street
Brookside Drive	Delmar Street	Hemlock Drive	Longvue Drive
Buena Vista Drive	Doctors Drive	Hidden Valley Circle	Market Hills Drive
Burrell Street	Dogwood Road	Highland Avenue	Martin Luther King
Carolina Avenue	Dove Circle	Highland Park Lane	Jr. Street
Cecil Miller Road	Eastbrook Drive	Hillandale Drive	Mary Street
Cecil Street	Eastridge Drive	Hillcrest Circle	Moretz Drive
Charles Street	Eastview Drive	Hillside Drive	Morningside Drive

N Depot Street	Pheasant Ridge	Stadium Drive	Green Street
North Ridge Circle	Pine Street	Straight Street	(NCDOT)
North Street	Poplar Hill Drive	Summit Street	W Virginia Street
Oak Street	Quail Drive	Sunnyside Drive	Wallace Circle
Oakdale Drive	Queen Street	Sunset Drive	Watauga Drive
Oakwood Drive	Racquet Road	Tanglewood Drive	Westbrook Drive
Olancho Avenue	Rhododendron Lane	Temple Drive	Wildwood Lane
Old Bristol Road	Robin Lane	Tracy Circle	Windy Drive
Orchard Street	Rogers Drive	University Circle	Wintergreen Lane
Owens Drive	Russell Drive	University Hall Drive	Wood Circle
Palmer Drive	S Depot Street	VFW Drive	Woodland Drive
Park Street	Shadowline Drive	W Hilltop Drive	Yosef Drive
Perkins Street	Sheridan Avenue	W King Street from	Zeb Street
Perry Street	Skyview Drive	College Street to	

25 miles per hour limit

Deerfield Road
Eastview Drive within Town limits (NCDOT)
Faculty Street
Industrial Park Drive
Junaluska Road within Town limits (NCDOT)
Meadowview Drive
N Water Street (NCDOT)
New Market Boulevard
Perkinsville Drive
Wilson Drive

35 miles per hour limit

Old E King Street
State Farm Road

SECTION 2: This Ordinance shall be effective on the date it is adopted.

Adopted this 16th day of December, 2019.

Rennie Brantz, Mayor

ATTEST: _____

**CONSIDERATION OF REVISIONS TO ADOPTED FEE SCHEDULE FOR
SIDEWALK/GREENWAY FEE-IN-LIEU**

Ms. Shook presented updated fee schedules for the Planning and Public Works Departments for fees for sidewalk/greenway fee-in-lieu. She noted that the previous fees only covered materials, not labor and that the fees presented were estimated per linear foot for a 5 foot concrete sidewalk and a ten foot asphalt greenway path. When asked by Mr. Furgiuele whether the concrete type was pervious or impervious, Ms. Shook answered that the concrete cost was an estimate for regular concrete. Mr. Furgiuele asked that if the Town decides in the future to mandate permeable materials, that staff be mindful of the change in cost. Upon a motion by Ms. Mason, seconded by Mr. Furgiuele, Council voted to approve the fee schedules as presented.

Town of Boone Planning and Inspections Fee Schedule, **Effective July 1, 2019**
 680 West King Street, Suite C, Boone, North Carolina 28607
 Phone: (828) 268-6960 • Email: planning@townofboone.net • www.townofboone.net
 Office Hours: 8 a.m. – 5 p.m., Monday-Friday

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Fee Code:

○ = Common Single-Family Fees

◆ = Common Commercial Fees

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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 when the application is submitted. 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 only be sent to the applicant.

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 his/her 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	Estimated Review Time	Application Type	Estimated Review Time
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, 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 his/her designee finds that there are mitigating circumstances.

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SECTION 1. BOARD/HEARING FEES

Board of Adjustment

Special Use Permit – Base Fee	\$700.00
+ \$0.63 per Adjacent Property Owner Notification letter	TBD
+ Prorated cost of legal advertising for case	TBD
Variance – Base Fee (per requested variance)	\$460.00
+ \$0.63 per Adjacent Property Owner Notification letter	TBD
+ Prorated cost of legal advertising for case	TBD
Appeal of Administrative Decision – Base Fee	\$400.00
+ \$0.63 per Adjacent Property Owner Notification letter	TBD
+ Prorated cost of legal advertising for case	TBD
Major Subdivision Preliminary Plat Review – Base Fee	\$700.00
+ \$0.63 per Adjacent Property Owner Notification letter	TBD
+ Prorated cost of legal advertising for case	TBD

Planning Commission/Public Hearing

Text Amendment – Base Fee	\$400.00
General Use Zoning Map Amendment – Base Fee	\$340.00
+ \$0.63 per Adjacent Property Owner Notification letter	TBD
+ Prorated cost of legal advertising for Case	TBD
Conditional District Zoning Map Amendment – Base Fee	\$765.00
+ \$0.63 per Adjacent Property Owner Notification letter	TBD
+ Prorated cost of legal advertising for Case	TBD

SECTION 2. SUBDIVISION FEES

Exempt Division of Land	\$75.00
+ Water Supply Watershed Review	\$15.00
Minor Subdivision	\$135.00
+ Water Supply Watershed Review	\$15.00
Major Subdivision Final Plat	\$230.00

SECTION 3. ANNEXATION FEES

Voluntary Annexation Petition- Base Fee	\$210.00
+ Cost of legal advertising for Case (fee due prior to date of public hearing)	TBD

Page Subtotal \$ _____

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

SECTION 4. ZONING PERMIT FEES

Single-Family & Duplex (Use 1.06)

◦ New Construction & Additions with < 1 acre of land disturbance – Base Fee	\$214.00
<i>If triggered, the following fees shall be assessed in addition to the base fee set forth above.</i>	
+ Land disturbance ≥ 1 acre, per acre or part thereof	\$60.00
+ Minor Special Flood Hazard Review ¹	\$30.00
+ Major Special Flood Hazard Review ²	\$140.00
+ Water Supply Watershed Review	\$15.00
+ Viewshed Protection Overlay Review	\$15.00
+ Steep or Very Steep Slope Review	\$15.00
◦ Accessory Use or Change of Use with < 1 acre of land disturbance – Base Fee	\$176.00
<i>If triggered, the following fees shall be assessed in addition to the base fee set forth above.</i>	
+ Land disturbance ≥ 1 acre, per acre or part thereof	\$60.00
+ Minor Special Flood Hazard Review ¹	\$30.00
+ Major Special Flood Hazard Review ²	\$140.00
+ Water Supply Watershed Review	\$15.00
+ Viewshed Protection Overlay Review	\$15.00
+ Steep or Very Steep Slope Review	\$15.00
◦ Open Decks, Parking/Yard Modifications, Sheds w/ < 1 acre of land disturbance -Base Fee	\$110.00
<i>If triggered, the following fees shall be assessed in addition to the base fee set forth above.</i>	
+ Land disturbance ≥ 1 acre, per acre or part thereof	\$60.00
+ Minor Special Flood Hazard Review ¹	\$30.00
+ Major Special Flood Hazard Review ²	\$140.00
+ Water Supply Watershed Review	\$15.00
+ Viewshed Protection Overlay Review	\$15.00
+ Steep or Very Steep Slope Review	\$15.00

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Commercial/All Other Residential

♦ New Construction, Additions, Accessory Structures - Base Fee	\$470.00
(< 1 acre of land disturbance, ≤ 2,500 total building square footage)	
<i>If triggered, the following fees shall be assessed in addition to the base fee set forth above.</i>	
+ Land disturbance ≥ 1 acre, per acre or part thereof	\$275.00
+ Minor Special Flood Hazard Review ^{1,4}	\$30.00
+ Major Special Flood Hazard Review ^{2,3}	\$205.00
+ Water Supply Watershed Review	\$30.00
+ Viewshed Protection Overlay Review	\$30.00
+ Steep or Very Steep Slope Review	\$30.00
♦ New Construction, Additions, Accessory Structures - Base Fee	\$560.00
(< 1 acre of land disturbance, 2,501-20,000 total building square footage)	
+ Land disturbance ≥ 1 acre, per acre or part thereof	\$275.00
+ Minor Special Flood Hazard Review ^{1,4}	\$30.00
+ Major Special Flood Hazard Review ^{2,3}	\$205.00
+ Water Supply Watershed Review	\$30.00
+ Viewshed Protection Overlay Review	\$30.00
+ Steep or Very Steep Slope Review	\$30.00
♦ New Construction, Additions, Accessory Structures - Base Fee	\$800.00
(< 1 acre of land disturbance, > 20,000 total building square footage)	
<i>If triggered, the following fees shall be assessed in addition to the base fee set forth above.</i>	
+ Land disturbance ≥ 1 acre, per acre or part thereof	\$275.00
+ Minor Special Flood Hazard Review ^{1,4}	\$30.00
+ Major Special Flood Hazard Review ^{2,3}	\$205.00
+ Water Supply Watershed Review	\$30.00
+ Viewshed Protection Overlay Review	\$30.00
+ Steep or Very Steep Slope Review	\$30.00
♦ Change of Use, no site plan review required – Base Fee	\$110.00
<i>If triggered, the following fees shall be assessed in addition to the base fee set forth above.</i>	
+ Minor Special Flood Hazard Review ^{1,4}	\$30.00

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

Change of Use or Renovation – Site Plan Review Required (Tier 1) – Base Fee

- ♦ Project cost (not including maintenance & repair, with exceptions for work in SFHA) is over 10% of total development value. Fee also covers work which requires site plan approval for projects with project costs which are less than 10% of total development value. See Project Manager for assistance in determining fee. **\$200.00**

If triggered, the following fees shall be assessed in addition to the base fee set forth above.

+ Land disturbance ≥ 1 acre, per acre or part thereof	\$275.00
+ Minor Special Flood Hazard Review ^{1,1}	\$30.00
+ Major Special Flood Hazard Review ^{2,2}	\$205.00
+ Water Supply Watershed Review	\$30.00
+ Viewshed Protection Overlay Review	\$30.00
+ Steep or Very Steep Slope Review	\$30.00

Change of Use or Renovation – Site Plan Review Required (Tier 2) – Base Fee

- ♦ Project cost (not including maintenance & repair, with exceptions for work in SFHA) is over 25% of total development value. See Project Manager for assistance in determining fee. **\$300.00**

If triggered, the following fees shall be assessed in addition to the base fee set forth above.

+ Land disturbance ≥ 1 acre, per acre or part thereof	\$275.00
+ Minor Special Flood Hazard Review ^{1,1}	\$30.00
+ Major Special Flood Hazard Review ^{2,2}	\$205.00
+ Water Supply Watershed Review	\$30.00
+ Viewshed Protection Overlay Review	\$30.00
+ Steep or Very Steep Slope Review	\$30.00

Change of Use or Renovation – Site Plan Review Required (Tier 3) – Base Fee

- ♦ Project cost (not including maintenance & repair, with exceptions for work in SFHA) is over 50% of total development value. See Project Manager for assistance in determining fee. **\$400.00**

If triggered, the following fees shall be assessed in addition to the base fee set forth above.

+ Land disturbance ≥ 1 acre, per acre or part thereof	\$275.00
+ Minor Special Flood Hazard Review ^{1,1}	\$30.00
+ Major Special Flood Hazard Review ^{2,2}	\$205.00
+ Water Supply Watershed Review	\$30.00
+ Viewshed Protection Overlay Review	\$30.00
+ Steep or Very Steep Slope Review	\$30.00

Change of Use or Renovation – Site Plan Review Required (Tier 4) – See Fees for New Construction

Project cost (not including maintenance & repair, with exceptions for work in SFHA) is over 75% of total development value. See Project Manager for assistance in determining fee.

- ♦ **Lighting, Parking, Landscape Modifications or Culvert Repair (modification of existing infrastructure)** **\$150.00**
- Accessory Structure – See Fees for New Construction** -
- ♦ **Special Flood Hazard Area - Map Revisions/Amendments** **\$170.00**
 - + \$0.63 per property owner notification letter TBD
 - + Cost of Legal Advertising TBD

Page Subtotal \$ _____

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Small Wireless Facility (Per NC SL 2017-159)

Technical Fee (applied to first facility in each batch of 25)	\$500.00
+Facilities 1-5 (in the same batch)	\$100.00
+Facilities 6-25 (in the same batch)	\$50.00

Wireless Transmission Facility

Co-location or Eligible Facility Modification	\$170.00
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All Others	\$675.00
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If triggered, the following fees shall be assessed in addition to the base fee set forth above.

+Land disturbance ≥ 1 acre, per acre or part thereof	\$275.00
+Special Flood Hazard Review Minor	\$30.00
+Special Flood Hazard Review Major	\$205.00
+Water Supply Watershed Review	\$30.00
+Viewshed Protection Overlay Review	\$30.00
+Steep or Very Steep Slope Review	\$30.00

Other Zoning Fees

Home Occupation	\$90.00
Zoning Confirmation Letter	\$120.00
Pavement Sealant	\$115.00
+ Additional Inspection for Pavement Sealant with Coal Tar	\$50.00
Neighborhood Conservation District Parking Sticker	No Charge

SECTION 5. SIGN FEES

♦ Permanent Sign, per sign	\$165.00
+Additional Fee for Freestanding Sign	\$50.00
+Additional Fee for Lighted Sign	\$50.00

SECTION 6. BUILDING PERMIT FEES

Single-Family & Duplex (Use 1.06)

◦ New Construction up to 2,500 square feet	\$446.00
+ Additional fee each square foot over 2,500 square feet	\$0.15
+ Homeowners Recovery Fee ³	\$10.00
◦ Addition, Renovation, Repair; separate charge for each inspection trip	\$85.00
+ Homeowners Recovery Fee ³	\$10.00
+ \$50.00 per inspection trip	TBD
+Renovations & Repair Minor Special Flood Hazard Area Review	\$30.00

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◦ Manufactured Home in Park (Inclusive of Zoning Review)	\$280.00
+ Minor Special Flood Hazard Review ¹⁺	\$30.00
+ Major Special Flood Hazard Review ²⁺	\$140.00
Commercial/All Other Residential	
♦ New Construction Base Fee	\$565.00
+ Per Square Foot	\$0.27 x ____
♦ Addition, Renovation & Repair- Base Fee (1-5,000 square feet total building square footage)	\$170.00
+\$50.00 per inspection trip	TBD
+Renovation & Repair Minor Special Flood Hazard Area Review (if Major SFHA review triggered, a separate zoning permit is required.) ¹⁺	\$30.00
♦ Addition, Renovation & Repair- Base Fee (5,001 – 20,000 square feet of total building)	\$285.00
+\$50.00 per inspection trip	TBD
+Renovation & Repair Minor Special Flood Hazard Area Review (if Major SFHA review triggered, a separate zoning permit is required.) ¹⁺	\$30.00
♦ Addition, Renovation & Repair- Base Fee (20,001+ square feet of total building)	\$565.00
+\$50.00 per inspection trip	TBD
+Renovation & Repair Minor Special Flood Hazard Area Review (if Major SFHA review triggered, a separate zoning permit is required.) ¹⁺	\$30.00
♦ Change of Occupancy – no modification to building necessary	\$115.00
♦ Change of Occupancy with renovations. See Addition, Renovation & Repair Fees	
Other Building/Construction Related Fees	
Equipment Changeout; per unit charge; includes 1 inspection.	\$120.00
+ \$50.00 per inspection trip after 1st	TBD
+Minor Special Flood Hazard Area Review (if Major SFHA review triggered, a separate zoning permit is required.) ¹⁺	\$30.00
Renovation & Repair Small Project Work	
♦ <i>This fee is for a project that involves only one trade (electrical, gas, mechanical, plumbing) for changes to existing systems where the project cost is less than \$30,000.00. Includes 1 inspection.</i>	\$120.00
+ \$50.00 per inspection trip after 1st	TBD
+Minor Special Flood Hazard Area Review (if Major SFHA review triggered, a separate zoning permit is required.) ¹⁺	\$30.00
Construction Trailer (Inclusive of Zoning Review)	\$130.00
+Minor Special Flood Hazard Area Review (if Major SFHA review triggered, a separate zoning permit is required.) ¹⁺	\$30.00
Total Demolition/Moving	\$120.00
At Risk Special Footing/Foundations	\$195.00
+\$50.00 per inspection trip	TBD

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SECTION 7. PLANNING AND INSPECTIONS - ALL OTHER FEES & PENALTIES

Other

~~Encroachment Agreement (per encroachment agreement)~~ ~~\$50.00~~

Miscellaneous \$75.00

ABC Compliance Inspection \$175.00

Additional Review Fees- Due at time of Resubmittal

Subsequent Zoning Review Fee for each review after 2nd, 50% of original fees -

Subsequent Building Review Fee for each review after 2nd, 50% of original fees -

Other Inspections

Re-inspection Fee (per Inspector/Planner, per trip) \$50.00

On-site consultation (per Inspector/Planner) \$50.00

Penalties

Working without Permits @ double the permit cost (per permit for both building and zoning)

Other Zoning Penalties – See UDO Section 12.07 -

Other Town Code Penalties – See Appropriate Town Code Reference -

SECTION 8. DEVELOPMENT RELATED FIRE DEPARTMENT FEES

♦ New Construction (per square foot)		\$0.03 x ____
♦ Building Permit Renovation Review Fee		\$50.00
♦ Multi-Family and Commercial Zoning - Site Plan Review		\$75.00
♦ New Fire Alarm System up to 10,000 square feet		\$100.00
+ Additional fee each square foot over 10,000 square feet		\$0.01
♦ Fire Alarm System Renovation		\$50.00
♦ New Fixed Fire Suppression System		\$100.00
♦ Fixed Suppression System Renovation		\$50.00
♦ New Sprinkler System up to 10,000 square feet		\$200.00
+ Additional fee each square foot over 10,000 square feet		\$0.02
♦ Sprinkler System Renovation		\$100.00
♦ New Standpipe System		\$200.00
New Underground Tank Install (per tank)	Additional Fee to a Zoning Permit	\$100.00
Underground Tank Removal (per tank)	due to land-disturbing activities.	\$50.00

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SECTION 9. DEVELOPMENT RELATED PUBLIC WORKS DEPARTMENT FEES

Utilities Division Fees

♦ Building Permit – Pretreatment Review	\$75.00
♦ Building Permit – Utility Systems Review	\$75.00
♦ Zoning Permit – Site Plan Review for Utility Connections	\$75.00

Services Division Fees

♦ Town of Boone Driveway Permit (per driveway)	\$50.00
♦ Zoning Permit – Site Plan Review	\$75.00

Encroachment Agreement (per encroachment agreement) \$50.00

Sidewalk/Greenway Fee-in-Lieu:

<u>Per linear foot of concrete sidewalk (5' width)</u>	<u>\$92.00</u>
<u>Per linear foot of asphalt greenway (10' width):</u>	<u>\$65.00</u>
<u>Per linear foot of curb and gutter</u>	<u>\$33.00</u>
<u>Wheelchair Ramp</u>	<u>\$1,350.00</u>

Page Subtotal \$ _____

Total Fees Due \$ _____

<S:\FORMS\PI Forms Current\Fees\ToB P&I FeeSchedule 12162019.docx>

• A minor special flood hazard review is for a project which:

1. Is for an equipment change-out only that is like for like in the exact same location; or
2. Contains no land disturbing activities in the special flood hazard area; or
3. Contains renovations of a structure in which renovation costs do not exceed 50% of the structure value
4. Any other situation in which approval is obtained by the Administrator.

• A major special flood hazard review is for all projects which either exceed or do not meet the requirements set forth for a minor special flood hazard review as outlined above. Any project which triggers a major special flood hazard review shall be required to obtain a zoning permit.

• Required when a licensed General Contractor is used.



Town of Boone
 Department of Public Works Fee Schedule
2019 Fee Schedule Effective July 1, 2019

BRUSH, DEBRIS & LEAF PICKUP SERVICES
RATE INCREASE as of JULY 1, 2019

	SERVICE FEE	DESCRIPTION
BRUSH	\$80.00	GRAPPLE TRUCK
		2 EMPLOYEES
	<u>\$50.00</u>	@25.00/HR
	\$130.00	TOTAL PER HOUR
		HALF-HOUR
	\$65.00	MINIMUM
DEBRIS	\$80.00	GRAPPLE TRUCK
		2 EMPLOYEES
	<u>\$50.00</u>	@25.00/HR
	\$130.00	TOTAL PER HOUR
		HALF-HOUR
	\$65.00	MINIMUM
LEAF	\$43.00	VACUUM TRUCK
		1 EMPLOYEE
	<u>\$25.00</u>	@25.00/HR
	\$68.00	TOTAL PER HOUR
		HALF-HOUR
	\$34.00	MINIMUM
DEVELOPMENT PLAN REVIEW & INSPECTION FEE		\$75.00
DRIVEWAY PERMIT FEE		\$50.00
ENCROACHMENT AGREEMENT FEE		\$50.00
<u>SIDEWALK/GREENWAY FEE-IN-LIEU FEE</u>		
<u>PER LINEAR FOOT OF CONCRETE SIDEWALK (5' WIDTH)</u>		<u>\$92.00</u>
<u>PER LINEAR FOOT OF ASPHALT GREENWAY (10' WIDTH)</u>		<u>\$65.00</u>
<u>PER LINEAR FOOT OF CURB AND GUTTER</u>		<u>\$33.00</u>
<u>WHEELCHAIR RAMP</u>		<u>\$1,350.00</u>

UTILITY SERVICES**~~RATE INCREASE as of July 1, 2019~~****METER DEPOSITS**

(outside city limits deposits are double rates listed below):

Residential	\$150.00
Commercial	\$500.00
PRE-TREATMENT PLAN REVIEW & INSPECTION FEE	\$75.00
WATER & SEWER PLAN REVIEW & INSPECTION	\$75.00
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
SYSTEM DEVELOPMENT FEES (per gallon):	
WATER	\$7.89
SEWER	\$7.99
CONSTRUCTION METER (temporary):	
$\frac{3}{4}$ "	\$500.00
2" or 3"	\$1,600.00
METER CONNECT/DISCONNECT/RECONNECT (each)	\$125.00
RETURNED CHECK CHARGE	\$20.00
METER RE-READ CHARGE	\$10.00
LATE PENALTY CHARGE	\$10.00
SEPTIC DISPOSAL FEE (per gallon):	
Residential	\$7.00
Commercial	\$10.00
MINIMUM FEE (each) WATER & SEWER	
(Outside city limit's minimums are double rates listed below):	
Minimum Residential $\frac{3}{4}$ " includes 0-1,000 gallons	\$14.25
Minimum Residential $\frac{3}{4}$ " includes 1,001-2,000 gallons	\$15.75
Minimum Commercial $\frac{3}{4}$ " includes first 2,000 gallons	\$21.50
Minimum Commercial 1" includes first 2,000 gallons	\$26.50
Minimum Commercial 1 $\frac{1}{2}$ " includes first 2,000 gallons	\$31.50
Minimum Commercial 2" includes first 2,000 gallons	\$31.50
Minimum Commercial 3" includes first 2,000 gallons	\$41.50
Minimum Commercial 4" includes first 2,000 gallons	\$51.50
Minimum Commercial 6" includes first 2,000 gallons	\$71.50
Minimum Commercial 8" includes first 2,000 gallons	\$91.50
DISTRIBUTION – WATER	
(Outside city limit's use is double rates listed below):	
2,001 - 4,999 gallons	\$6.15
5,000 - 9,999 gallons	\$6.40
10,000 - 14,999 gallons	\$6.65
15,000 – 19,999 gallons	\$6.90
Over 20,000 gallons	\$7.15
COLLECTION – SEWER	
(Outside city limit's use is double rates listed below):	
Residential – Over 2,000 per 1,000 gallons	\$5.50
Commercial – Over 2,000 per 1,000 gallons	\$5.75

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Council Member
SECONDER:	Sam Furgieuele, Council Member
AYES:	Mason, Clawson, Furgieuele, Ulmer, Ashcraft

TOWN ATTORNEY'S REPORT ON REVIEW OF RENEGOTIATING FRANCHISE AGREEMENT WITH ELECTRIC UTILITIES

As previously requested by Council, Ms. Meade gave a report on her research of the potential renegotiating of franchise agreements with local electric utility companies to establish "net metering" for solar use. She stated that after conducting additional research, she did not believe the Town had the authority to use its franchise agreement with New River Light and Power for negotiating since they were a State agency governed by the Public Utilities Commission of North Carolina. She added that she did not believe the Town had negotiating powers over a state agency except as allowed by statute there was anything in the statutes that gave the Town authority to regulate ASU's power company. Mr. Furgieuele asked whether the Town had the authority to enter into an agreement with other government entities, and if so, would it be able to negotiate with New River for practices it might desire. Ms. Meade answered that the Town was able to do so, and that the Town had been negotiating, but it was only unable to impose regulations. She noted that in the past, towns were allowed to impose a franchise tax, but that right was removed, with Mr. Ward noting that this is likely why the franchise agreement had never been revisited. Mr. Ward indicated that Ms. Meade's report would be shared with incoming Council members. Ms. Meade went on to say that it was not clear to her whether the Town could have a franchise agreement with Blue Ridge Electric Membership Company; state law appeared to suggest not. Mr. Ward noted that BREMCO planned to contract with NTE, and noted that due to this fact, the limits of who the Town purchased power from were removed and were no longer limited to who the Town could purchase renewable energy from. He added that New River Light and Power planned to attend the meeting next month to provide Council with an update on the solar array. Mr. Furgieuele asked for clarification as to whether when he indicated that there would be a choice as to whether New River sourced the electricity from renewable sources, Mr. Ward was referring to the Town of Boone as a whole or the Town of Boone government, to which Mr. Ward responded the Town of Boone as a whole. Mr. Furgieuele stated that he felt that Council needed to keep this type of discussion on the table rather than push negotiations on New River Light and Power. He added that the Town had many points of cooperation with them currently. Mayor Pro-Tem Clawson noted that she was recently told by a house member that legislation would have to be changed in order to do some of the things people wanted to do, to which Mr. Furgieuele added he hoped that Council would work to act in concert with like-minded communities toward this effort.

REQUEST FOR APPROVAL TO APPLY FOR USDA COMMUNITY FACILITIES LOAN

Upon a motion by Ms. Mason, seconded by Mr. Furgieuele, Council voted to allow staff to move forward with applying for a USDA Community Facilities Loan and/or grant funds for the Town of Boone Howard Street project and to appoint Town Manager John Ward to serve as the point of contact for the project.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Council Member
SECONDER:	Sam Furgieuele, Council Member
AYES:	Mason, Clawson, Furgieuele, Ulmer, Ashcraft

REQUEST A REPORT TO COUNCIL ON THE EFFECTIVENESS OF CURRENT RECYCLING PROGRAM

Mr. Ashcraft presented Council with a request for a report from Republic Services to provide information on the Town's recycling program. He stated that a good deal of material was not being recycled and that prices for

recycled materials have dropped and costs have risen, while standards have been tightened. Mr. Ashcraft felt that it was safe to assume that things were not being handled well and that he wanted to get this data from Republic to make sure the Town was doing the best it could do, and if not, what it could do better from an environmental and cost standpoint. He expressed concern that things which are being picked up as recyclables were just being dumped into the ocean or other inappropriate places. Mr. Ward suggested that staff work with Republic Services to provide details in addition to what is available in the quarterly reports to Council, though he was unsure how long it would take to gather the needed information. Mr. Ward noted that there were communities that were moving away from recycling programs, with Ms. Meade stating that she believed Blowing Rock had discontinued their program, or at least a significant portion of it, recently. Mr. Ward and Ms. Meade believed there was flexibility with the Republic contract if there was a need to adjust once the information was completed. There was consensus among members to have staff to move forward to work with Republic Services to gather details about the Town's recycling program to include the following:

- How much is marketed to a domestic end user to be recycled, whether directly to the processor/manufacturer or to a broker;
- How much is landfilled as "residual" waste because it is inappropriate material or excessively contaminated;
- How much is landfilled or incinerated or otherwise disposed of in this country without recycling because of a lack of markets;
- How much is shipped overseas;
- Identify options for ensuring that we collect only materials which we are confident will be recycled, and increase collections of those materials through increased public participation and public education.

Since Mr. Ward was unsure how long it would take to compile this information, he asked that Council allow him and staff to work on their own timeline.

ADJOURNMENT

Upon a motion by Mayor Pro-Tem Clawson, seconded by Ms. Mason, Council voted to adjourn the meeting at 9:47 p.m.

VOTE:	Aye:	All
	Nay:	None

Nicole Harmon, Town Clerk

Rennie Brantz, Mayor