

**Minutes
Spruce Pine Town Council
Monday, August 14th, 2023**

A meeting of the Town Council was held on August 14th, 2023. Present were Mayor Darla Harding and Council Members Rocky Buchanan, James Acuff, Larry McKinney, and Jackie Rensink. Staff in attendance included Darlene Butler, Michael Wood, Russell Lankford, Kasey Cook, Shelley Buchanan, and Crystal Young. Others attended, including Chad Donnahoo, Lynn Holler, Kim Hageman, Sharon McIntosh, Phillip Hise, Wayne Peight, Cynthia Sciacca, Donnie Staton, Tim Kearns, and Chad Keller.

CALL TO ORDER

Mayor Darla Harding called the regular meeting to order at 5:30 PM. Rocky Buchanan gave the invocation. Larry McKinney led the Pledge of Allegiance.

APPROVAL OF AGENDA

Jackie Rensink moved to approve the agenda as presented. James Acuff seconded the motion, which carried unanimously.

APPROVAL OF MINUTES

Larry McKinney moved to approve the minutes of the closed session held on July 10, 2023. James Acuff seconded the motion, which carried unanimously.

Rocky Buchanan moved to approve the minutes of the regular meeting held on July 10, 2023. Jackie Rensink seconded the motion, which carried unanimously.

Larry McKinney moved to approve the minutes from the regular meeting held on July 24, 2023. Jackie Rensink seconded the motion, which carried unanimously.

APPOINTMENTS

None

PUBLIC COMMENT

Tim Kearns asked that the pot holes on Pine Ave and Amethyst Street be repaired as soon as possible. He also requested that these streets be repaved in next years budget. Mayor Harding let him that these potholes have been put on work orders.

Chad Keller, President of the Lions Club, requested approval of a solicitation permit application for a fund raiser at the intersection of 19E and 226 on October 15th, 2023. Larry McKinney made a motion to approve the solicitation permit. James Acuff approved the motion, which carried unanimously.

DEPARTMENT UPDATES

Public Works

- Russell Lankford presented his directors report for the month of July. Said report is incorporated by reference and attached to these minutes. He also responded to Mr. Kearns that he has a work order to do the repairs he mentioned and will be doing that as soon as he is able to get asphalt.

Water & Sewer

- Veolia Project Manager Donnie Staton gave his monthly report. Said report is incorporated by reference and attached to these minutes.

Parks and Rec

- Michael Wood presented his report for the month of July. Said report is incorporated by reference and attached to these minutes.

Finance

- Finance Officer Crystal Young presented financials through July 31st. Said reports are incorporated by reference and attached to these minutes. She noted that customers who received the notice of Deceased Utility Account Holder notices have been coming in to take care of the situation. Crystal mentioned that DSS has received

additional funding to help customers behind on utility bills. She also noted the Ford Explorer deemed as surplus property has sold on Gov Deals and the 1997 Jimmy is currently for sale.

Police Dept

- Chief Kasey Cook updated the Council on his department. The two new vehicles that were budgeted are in Greensboro being upfitted and he hopes to have them in service in the next couple of months. The new officer he hired is ready to begin work as soon as his paperwork comes back from Raleigh. His officers have been working hard to cover shifts while training has been a priority. Chief Cook mentioned some local companies have offered monetary donations to the police department and he would like to use these funds to implement another K9 in the department. He said the K9 they have now has been an incredible asset to the department and he would like the other shifts to have access to the same tool. The Council gave Kasey their blessing to move forward with making this happen.

ACTION AGENDA

Crystal summarized the Spruce Pine Historic Pedestrian Bridge Project/Dogwood Health Trust Funds Capital Project Ordinance. Said ordinance is incorporated by reference and attached to these minutes. Larry McKinney moved to adopt the ordinance. James Acuff seconded the motion, which carried unanimously.

Town Manager

- ❖ Darlene dedicated her monthly report to the proposed Article IV Nonresidential Property Maintenance Standards Ordinance. She summarized the ordinance and asked that the Council take time to discuss and refer it to the Planning and Zoning Board for review. The purpose of this ordinance is to establish minimum standards for the maintenance, sanitation, and safety of all nonresidential buildings and structures. Said ordinance is incorporated by reference and attached to these minutes. It was the consensus of the Council to allow Darlene to pass it along to the Planning and Zoning Board for their review.

MAYOR/ COUNCIL COMMENTS/REQUESTS

None

ADJOURNMENT

With no further discussion, Larry McKinney moved to adjourn the meeting at 6:40 pm.

Shelley Buchanan, Town Clerk



Dana Harding, Mayor

Larry McKinney, Mayor Pro Tem

Rocky Buchanan, Council Member



James Acuff, Council Member



Jackie Rensink, Council Member

MONTHLY REPORT
OF THE
WATER AND WASTEWATER FACILITIES
SPRUCE PINE, NORTH CAROLINA



PREPARED
FOR THE
TOWN OF SPRUCE PINE
July 2023



JULY 2023 MONTHLY REPORT
SPRUCE PINE WATER/WASTE PLANTS
OPERATED BY VEOLIA NORTH AMERICA

WATER SYSTEM

The water plant, pump stations, and both wells operated in full compliance with all State and Federal rules for the month. The Water Plant collected six (6) bacteriological samples from the distribution system and all were clear.

Custom Controls installed new antennas at North Toe River. This repaired our communication issues from our Scada system to that pump house. The way it was, we could not control our pumps remotely.

Waste plant crew completed semi annual preventive maintenance on all water station pumps.

All and all, it was a great month at the water plant.

CAPITAL PROJECTS

- All capital project PO#s for 2023/2024 were given out at the first of the month.
- Gerald Glenn installed new LED lights throughout the water plant and in the filter press building at the waste plant. These were greatly needed and should save the town a ton on energy costs.
- KDT installed an alarm on the influent pump control building that will alert staff if there are pump problems.
- Jay Johnston is working on the design of the Carters Ridge Bar screen.
- SW services is working on the new pump and piping rehab at the maintenance sewer pump station.

PRODUCTION

	PRODUCTION MG	AVG GAL/DAY PRODUCTION MG	GALLONS USED TO BACKWASH FILTERS
Water Plant	32.46	1.047	780000

Veolia North America, 95 Clearwater Lane, Spruce Pine NC 28777
Tel. +1 828 765 3011
Fax +1 828 765 3013



WASTEWATER

The wastewater plant and lift stations operated in full compliance with all State and Federal rules and regulations for the month. We sent 7 loads of solids to the landfill.

Chlorine leak alarm went out at the waste plant. KDT is sending us a quote for a new one. This is much needed for the safety of our operators.

New and bigger sewer pumps have been ordered for the Mitchell High pump station. We are going from 10 horsepower to 15 horsepower to be able to handle extra flow from the new schools that are under construction.

Gerald Glenn installed a new pump alternator at Carters Ridge sewer lift station.

Waste plant staff pulled and cleaned both Carters Ridge sewer pumps on 7/7/23 and 7/26/23.

CAPITAL PROJECTS

See update on water report.

ANALYSES

	INF AVG MG/L	EFF AVG MG/L	% REMOVAL
BOD	187.4	2.20	98%
TSS	241.0	6.2	98%

OTHER CONSIDERATIONS

- Both of our new employees at the waste plant passed their Grade 1 wastewater exams with high scores. They will be attending Grade 2 school in August or September of this year. We are very proud of them.

Respectfully Submitted,

Donnie Staton

Veolia North America, 95 Clearwater Lane, Spruce Pine NC 28777

Tel. +1 828 765 3011

Fax +1 828 765 3013

www.veolianorthamerica.com



Parks and Recreation Department

Office (828)765-3012

Cell (828) 385-2179

Town of Spruce Pine Board Meeting

August 14, 2023

General Park Maintenance

- Morning and Night check list completed each day
- Trash pick-up in town
- Mowing and weed eating

Brad Ragan Park

- The new drain has been completed at basketball court
- The new fence has been installed
- The new handicap parking has been paved at all purpose court and shelter 1
- The lower parking lot is now a circle drive around
- Tennis courts and pickle ball courts are re surfaced and painted and open for use
- Water line has been put in place at tennis courts
- A new message center has been installed at the tennis courts
- New rock flower bed has been built around the front gate sign
- New direction sign has been placed at the bottom of Laurel Creek Court road

Riverside Park

- The restroom stall door has been re placed

Shelter Reservations

- 42 reservations for the month of July

Pool

- 10 rentals for July and the 1st week in august

- On July 25th the staff wanted to do a Christmas in July theme. It was a big success with Christmas music and santa
- On July 26th the first free day admission we had over 365 people come through the pool
- August 8th was the second free day admission and we had around 100 come through the gate
- The pool is now closed for the season

Town

- Worked on weeds around the library
- Made a cigarette ashtray for the pine line bus stop at the canipe building

Other Business

- Mitchell Giving Gardens had their Harvest table. August 25th is their next one, and still have two in September

Town of Spruce Pine Monthly Report

July 2023

Public Works Department

Work Order Summary for July 2023:

Unlock and turn on meter 9

Turn off and lock meter 7

Brush 47

Leaves 2

Locates 38

New Meters 10

Meter Checks 27

White Goods 4

Cardboard (weekly)

Water Leaks 8

Sewer Leaks 2

Water Taps 1

Sewer Taps 0

Graves 1

Unstopped culverts/ditches 2

Removed Trees from road 3

Hydrants bled in July: 7 not counting the ones we bled for leaks

July Misc. work summary:

Roads: We put a drain across the road on Sunny Brook before they paved. All the roads that were budgeted to pave are done. Also, Hickey Street and Duncan Street were paved. The contractor also paved a place on Hazel Avenue where we had a water leak. We patched Ollis road all the areas that was in the city limits. All the paving looked very good. We mowed Martha Drive, Creed Pitman, Sullins where our lift station is, Mountain View, the Meadows, Carpenter Island, Peterson Street, Sunnybrook, Valley Road and all of English Woods. We swept all the roads in English Woods. The waste plant road was repaired last week as budgeted. From the pavement to the lab in the plant.

Parks: We ran a new 1-inch water line to the tennis court/dog park area. We moved the extra playground barriers to our shop and took a plaque off a rock over there.

Library: A contractor installed two new doors on the back of the building.

Shop: I gave the contractor the PO to replace our shop roof on July 3rd. They have not started work. I ask for an update today. It was supposed to be the first week of August.

Maintenance on trucks: We washed and cleaned out every vehicle we have.

Sewer line maintenance: We cleaned and washed out 600 feet of sewer line in July.

Trees: I had a contractor remove three trees that we couldn't. One on Shannon Drive, one on Broadwater and one on Pack Drive that

was going to fall on a fire hydrant which was hooked to the main water line there.

Safety: We chained off the steps at the theater until they are repaired at the bottom and top.

Signs: We changed road signs on a couple streets. We also updated the business signs at the intersection of Greenwood and Harris Street.

CC/BF: I am still working on implementing our new Cross connection/Backflow program. We are making progress. Several places have added new ones or had old ones serviced and tested. Also, we purchased Aqua Resource software to help us maintain and keep our program up to date. They will automatically send out all notices. The testers will log into their site under our town and submit their results. I will also approve testers on there by making sure their certification is current.

Misc: We put the American flags up on the bridge and took down the different branches of service flags. We installed a new yard hydrant at the Depot lift station.

Russell Lankford

Public Works Director

Town of Spruce Pine Financials
Ending September 30th, 2023
1st Quarter
FY 2023-2024



2023-2024 Budget Figures				
		<u>2023-2024</u>	<u>Y-T-D July 31st,</u>	
		<u>Budget</u>	<u>2023</u>	<u>Percent</u>
General Fund Revenue				
Levied Taxes and Penalties		\$1,507,500	\$12,356	0.8%
Local Sales Tax		\$750,000	\$66,530	8.9%
Franchise Taxes		\$285,000	\$0	0.0%
Powell Bill		\$80,000	\$0	0.0%
Interest Earned		\$80,000	\$17,027	21.3%
Recreation Park Revenue		\$26,000	\$12,925	49.7%
Revolving Loan Repayments		\$7,500	\$825	11.0%
Misc Income		\$80,015	\$33,045	41.3%
Grants		\$27,951	\$0	0.0%
Fund Balance Appropriated		\$0	\$0	
General Fund Revenue		\$2,843,966	\$142,783	5.0%
General Fund Expenditures				
Governing Body		\$23,135	\$1,548	6.7%
Total Administration & Finance		\$263,049	\$41,636	15.8%
Cost of Elections		\$2,500	\$0	0.0%
Tax Collections Fees		\$5,250	\$419	8.0%
Economics		\$164,150	\$1,213	0.7%
Total Public Building & Facilities		\$105,028	\$15,406	14.7%
Fire Department		\$159,000	\$4,576	2.9%
Building Inspections		\$31,350	\$0	0.0%
Police Department		\$1,153,900	\$123,527	10.7%
Public Works		\$181,366	\$9,616	5.3%
Powell Bill		\$145,535	\$166,277	114.3%
Sanitation		\$88,950	\$0	0.0%
Parks & Recreation		\$290,002	\$38,710	13.3%
Library		\$135,042	\$10,022	7.4%
Trac Grant		\$5,000	\$0	0.0%
Cemetery		\$22,350	\$0	0.0%
Contingency		\$68,359		
Total General Fund Expenditures		\$2,843,966	\$412,949	14.5%
<i>Excess (deficiency) of revenue over Expenditures</i>		\$0	-\$270,167	

Town of Spruce Pine Financials
Ending September 30th, 2023
1st Quarter
FY 2023-2024



	<u>2023-2024</u>	<u>Y-T-D July 31st,</u>	
	<u>Budget</u>	<u>2023</u>	<u>Percent</u>
<u>2023-2024 Budget Figures</u>			
<u>Water & Sewer Fund</u>			
Charges for Water	\$1,738,000	\$159,778	9%
Charges for Sewer	\$1,172,000	\$123,136	11%
Water & Sewer Taps	\$6,000	\$3,418	57%
Water & Sewer Interest	\$15,000	\$0	0%
Misc Revenues	\$101,500	\$11,576	11%
Retained Earnings Appropriated	\$0	\$0	0%
Water & Sewer Revenue	\$3,032,500	\$297,907	10%
<u>Water & Sewer Expenditures</u>			
Water & Sewer Debt	\$62,364	\$250	0%
Water & Sewer Administration	\$1,302,928	\$57,057	4%
Water Expense	\$832,787	\$100,171	12%
Sewer Expense	\$729,108	\$96,429	13%
Contingency	\$105,313		
Water & Sewer Expenditures	\$3,032,500	\$253,907	8%
<i>Excess (deficiency) of revenue over Expenditures</i>	\$0	\$44,000	

Tarheel Canine Training, Inc.

Contact: Jerry Bradshaw, President & Training Director

230 W. Seawell Street, Sanford, NC 27330

Tel. 919-774-4152 Fax. 919-776-3151 Cell 919-244-8044

www.tarheelcanine.com

Email: malinois_jb@mindspring.com

Quote on Single Purpose Narcotics K9

- 1) **K9:** Tarheel Canine Training, Inc. (TK9) will provide a Labrador, Pointer, Belgian Malinois or German Shepherd Dog or cross according to the purchaser's specifications. The dog(s) shall possess suitable drive for the training of narcotics detection.
- 2) **Training:** Tarheel Canine Training, Inc. will train the dog in the areas of real sample narcotics detection (marijuana (if requested only), cocaine, heroin, meth-amphetamines and derivatives), tactical obedience and practical agility. The dog will be trained to nationally recognized standards. The training includes a 3 - week handler course, certification and free lifetime in-service training and re-certification through Tarheel Canine Training Inc.
- 3) **Lifetime Performance Guarantee:** Tarheel Canine Training Inc. guarantees that the K9 provided to the purchaser will meet the expectations of the purchaser in terms of temperament and working ability provided that the purchasing agency properly maintains the K9s training according to the program of training as instructed in the handler course, and additionally that such training is documented in training records. Should the team not meet the expectations of the purchaser after a suitable opportunity for **remediation** by Tarheel Canine Training Inc., the K9 shall be replaced (**excluding any and all expenses that may be incurred to return the K9 and handler to Tarheel Canine Training Inc**) at the mutual convenience of the purchaser and Tarheel Canine Training Inc, allowing for suitable time to procure and train a replacement K9 and conduct a handler course. **This guarantee is in force for the lifetime of the K9.** There will be no charge to the purchasing agency for the handler course or lodging if a replacement K9 is issued with the same handler. Any K9 returned must be in a healthy condition, with no permanent injury or defects. Should the canine's handler be replaced for any reason, the new handler and K9 must complete a full handler course within three (3) months of the change of handler at TK9's facility at TK9's market rate to keep this performance guarantee in force.
- 4) **Cost:** The cost for each dog, including training, handler course, certification, in-service training, and annual recertification is \$10,995.00 per dog. Housing cost is \$650 for 3 weeks. Single Purpose Equipment Kit (required) is \$1200 per dog.
- 5) **Cost (Tracking Option):** HST & VST Tactical Tracking Option for single purpose dogs is \$1500 additional to total cost.
- 6) **Housing:** For the convenience of our agencies sending handlers to our handler course, we offer a number of housing options. The price quoted in the bid sheets is a price for our dormitories. Dorms are private rooms with a bed and a dresser. There are male/female bathrooms, efficiency kitchen with refrigerator, microwave, and sink, and a common area with a dining table and couches and a TV. This is the least expensive housing option we offer. Please understand that the dorms are located at a K9 training facility, and so there will be noise early in the mornings, and handlers/students are responsible for cleaning up after themselves, in their rooms, lavatories, and common areas. These are basic accommodations, not luxury accommodations. There is no maid service. If your agency prefers hotel accommodations for your handlers, you are welcome to select this instead of the dorms, but market (or government) hotel rates will apply, and the agency will be responsible for making arrangements for such housing in advance of the handler course. We can provide a list of available hotels in the area.

Housing is first come first serve for dorm slots. If your handler arrives here and you have paid for dorm housing and then decide that a hotel is preferred, the difference in rates will be the responsibility of the agency, and not be the responsibility of Tarheel Canine Training, Inc. There are a number of hotels in the area, with a range of rates, including Quality Inn, Holiday Inn Express, Hampton Inn, Days Inn, and Comfort Suites.

- 7) **Payment Terms:** Tarheel Canine accepts municipal checks, MasterCard, Visa, American Express, or municipal purchase orders. A down payment of 50% of the total cost is due within 10 days upon placing the order. **Payment in full must be received on or before the first day of the handler course.** A 12% APR will be charged on any outstanding balances. **Pre-Payment:** A 5% discount on the cost of each trained K9 (excluding housing or equipment) will be applied if prepayment is received within 15 business days of the invoice. **Multiple Purchases:** A 2.5% discount will be applied to the cost of the trained K9 (excluding housing and equipment costs) on any multiple purchases.
- 8) **Health Guarantee:** TK9 warrants that the canine(s) provided will be healthy when delivered to the buyer. The dogs are delivered to the department on the first day of the handler school, and as such become the property and sole responsibility of the purchaser. The canine(s) will be current on all vaccinations, de-worming, and heartworm preventative. Health records and hip and elbow x-rays shall be provided the buyer upon taking possession of the animal on the first day of the handler course, or prior to that time upon request. **Any veterinary expenses incurred during the handler course for treatment of injury or diagnosis and treatment of any illness, not as the result of negligence on the part of TK9 or are determined to have happened before the buyer took possession, shall be paid by the purchaser.** Within 30 days of the conclusion of the handler course, Buyer shall obtain an initial baseline veterinary exam and a round of vaccinations to include a rabies vaccination from their departmental veterinarian. TK9 will unconditionally guarantee that the dogs will pass the physical health standards as set forth by the Buyer, including but not limited to X-ray screening for hip and elbow dysplasia, all current vaccinations, heartworm prevention and be free of internal and external parasites. Failure to obtain this baseline examination within the 30 days allowed will void the health guarantee. TK9 will **replace** a canine that fails the buyer's health requirements as a result of this baseline examination if the medical issue will prevent the dog from serving its intended function. TK9 shall not be liable for any expenses associated with this initial veterinary screening exam, nor any veterinary costs of diagnosis or treatment for any condition at any time beyond on the first day of the handler course. Should the buyer's veterinarian fail the dog for medical reasons, a written report detailing the defect responsible for this conclusion and its **congenital nature** shall be immediately forwarded to TK9 for immediate consideration under this health guarantee. Further, for a period not to exceed 2 years from the date of purchase, TK9 further guarantees replacement of the canine for any diagnosed congenital health defects which, in the opinion of the Buyer's veterinarian, will limit the canine(s) ability to function in the trained capacity of a police service dog. A written report of any such finding shall be forwarded to TK9 for immediate consideration for replacement. Any veterinary charges associated with diagnosing and/or treating any such congenital defects will be the sole responsibility of the buyer. Should the health guarantee be triggered, the dog shall immediately be returned to TK9 at the buyer's sole expense. Upon TK9's receipt of the dog in otherwise good health excepting the reason for the return, TK9 shall be obligated to replace the dog and handler course (including handler housing) with one of *similar* age, breed and training ability within three (4) months' time. Any remedy under this health guarantee or any part thereof, will be a replacement K9 and not a refund.
- 9) **Health Guarantee Exclusions:** TK9 shall not guarantee dental defects resulting from injury in the course of training from the date of initial selection. After taking possession, K9 obesity shall void the health guarantee. K9s should be maintained at an appropriate weight. Failure to maintain routine preventative care, including heartworm prevention, will void the health guarantee.
- 10) **Delivery:** Shall be at the mutual convenience of the purchaser and Tarheel Canine Training, Inc. Please feel free to call me at 919-244-8044 (cell) or 1-800-766-9032 (office) if we can be of service.



**TOWN OF SPRUCE PINE
SPRUCE PINE HISTORIC PEDESTRIAN BRIDGE PROJECT
DOGWOOD HEALTH TRUST FUNDS
CAPITAL PROJECT ORDINANCE**

BE IT ORDAINED by the Town Council of Spruce Pine that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1. The project authorized is the Spruce Pine Historic Pedestrian Bridge Project to include construction-related expenses associated with the project. The project will be partially funded by a grant from the Dogwood Health Trust Fund.

Section 2. The officers of this unit are hereby directed to proceed with the capital project within the terms of the budget contained herein.

Section 3. The following amounts are appropriated for the project:

Construction Expenses	\$ 100,000.00
Total	\$ <u>100,000.00</u>

Section 4. The following revenues are anticipated to be available to complete this project:

Dogwood Health Trust Funds	\$ <u>100,000.00</u>
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Section 5. The Finance Officer is hereby directed to maintain within the Dogwood Health Bridge Fund detailed accounting records. Any interest or income generated by the Grant shall be listed as restricted assets.

Section 6. The Finance Officer is directed to include a detailed analysis of the past and future costs and revenues on this capital project in every budget submission made to the Council.

Section 7. Copies of this capital project ordinance shall be furnished to the Clerk to the Governing Board, and to the Town Manager and the Finance Officer for direction in carrying out this project.

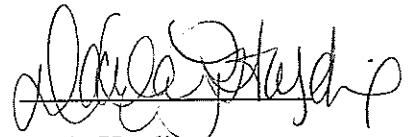
Adopted this 14th day of August, 2023

ATTEST:



Shelley Buchanan

Town Clerk



Darla Harding

Mayor

Article IV. Nonresidential Property Maintenance Standards

Division I - Generally

Sec. 4-19. – Authority (N.C.G.S. § 160D-1129(a)).

- (a) Pursuant to N.C.G.S. § 160D-1129, it is the purpose of this Article to establish minimum standards for the maintenance, sanitation and safety of all nonresidential buildings and structures (“Nonresidential Property”) within the Town’s corporate limits. This Article does not replace or modify requirements or standards otherwise established for the construction, repair, alteration or use of buildings, equipment, or facilities, except as provided in this Article.
- (b) The Town’s Code Enforcement Officer (“Officer”), or his/her designee, shall enforce the provisions of this Article on the Town’s behalf. The Officer shall have such authority and power as is necessary or convenient to carry out and effectuate this Article’s purpose, in addition to the others herein granted.
- (c) This Article’s provisions shall apply to all Nonresidential Property which is now in existence, or which may be built, within the Town’s corporate limits. All Nonresidential Property, and the real property on which it is situated, shall comply with this Article’s provisions, whether or not such building or structure shall have been constructed, altered, or repaired before or after this Article’s enactment, and irrespective of any permits or licenses which have been issued for the use or occupancy of the building or structure or for the installment or repair of equipment or facilities.
- (d) Nothing in this Article shall limit the Town’s authority to proceed with any other applicable statute, code, ordinance, or other applicable law in lieu of or in addition to proceeding under this Article’s terms.

Sec. 4-20. – Investigation (G.S. § 160D-1129(b)).

Whenever it appears to the Officer that any Nonresidential Property has not been properly maintained or is otherwise in violation of the standards contained in Division II of this Article, so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by sections 4-51 and 4-52, the Officer shall undertake a preliminary investigation. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with N.C.G.S. § 15-27.2 or with permission of the owner, the owner’s agent, a tenant, or other person legally in possession of the premises.

Sec. 4-21. – Complaint and Hearing (G.S. § 160D-1129(c)).

If the Officer’s preliminary investigation discloses evidence of a violation of the minimum standards established by this Article, the Officer shall issue a complaint and cause it

to be served upon the owner of, and Parties in Interest in, such Nonresidential Property. The complaint shall state the charges and contain a notice that a hearing will be held before the Officer at a place therein fixed, not less than ten (10) days or more than thirty (30) days after the serving of such complaint. The owner or any Parties in Interest shall have the right to correct the violation or to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in the hearing before the Officer.

Sec. 4-22. – Order (G.S. § 160D-1129(d)).

If, after notice and hearing provided for in Sec. 4-21, the Officer determines that the Nonresidential Property has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established in this Article, the Officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner an order.

Sec. 4-23. – Limitations on Orders (G.S. § 160D-1129(e)).

- (a) An order may only require the owner to repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established herein or to vacate and close the Nonresidential Property for any use.
- (b) An order may require the owner to remove or demolish the Nonresidential Property if the cost of repair, alteration, or improvement of the building or structure exceeds fifty (50) percent of its then current value. Notwithstanding any other provision of law, if the Nonresidential Property is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the Town Council determines, after an administrative hearing as provided by ordinance, that the Nonresidential Property is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, the order may require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established herein.
- (c) An order may not require repairs, alterations, or improvements to be made to Vacant Manufacturing Facilities or Vacant Industrial Warehouse Facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

Sec. 4-24. – Action by Town upon Failure to Comply with Order (G.S. § 160D-1129(f)).

- (a) If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the Nonresidential Property, the Town Council may adopt an ordinance ordering the Officer to proceed to effectuate the purpose of this Article with respect to the particular property or properties that the Officer found to be jeopardizing the health or safety of its occupants or members of the general public. The Nonresidential Property shall be described in the ordinance. The ordinance shall be recorded in the Mitchell County Office of the Register of Deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the Officer may cause the building or structure to be repaired, altered, or improved or to be vacated and closed. The Officer may cause to be posted on the main entrance of any nonresidential building or structure so closed a placard with the following words: “This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful.” Any person who occupies or knowingly allows the occupancy of a building or structure so posted is guilty of a Class 3 misdemeanor.

- (b) If the owner fails to comply with an order to remove or demolish the Nonresidential Property, the Town Council may adopt an ordinance ordering the Officer to proceed to effectuate the purpose of this Article with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. No ordinance shall be adopted to require demolition of a Nonresidential Property until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the Town Council. The Nonresidential Property shall be described in the ordinance. The ordinance shall be recorded in the Mitchell County Office of the Register of Deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the Officer may cause the Nonresidential Property to be removed or demolished.

Sec. 4-25. – Action by Town upon Abandonment of Intent to Repair (G.S. § 160D-1129(g)).

- (a) If the Town Council has adopted an ordinance or the Officer has issued an order requiring the Nonresidential Property to be repaired or vacated and closed and Nonresidential Property has been vacated and closed for a period of two (2) years pursuant to the ordinance or order, the Town Council may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the Nonresidential Property and that the continuation of the Nonresidential Property in its vacated and closed status would be inimical to the health, safety, and welfare of the town in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the Town Council may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

- (1) If the cost to repair the Nonresidential Property to bring it into compliance with the minimum standards is less than or equal to fifty (50) percent of its then current value, the ordinance shall require that the owner either repair or demolish and remove the Nonresidential Property within ninety (90) days; or
 - (2) If the cost to repair the Nonresidential Property to bring it into compliance with the minimum standards exceeds fifty (50) percent of its then current value, the ordinance shall require the owner to demolish and remove the Nonresidential Property within ninety (90) days.
- (b) In the case of Vacant Manufacturing Facilities or Vacant Industrial Warehouse Facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five (5) years before the Town Council may take action as established herein. The ordinance shall be recorded in the Mitchell County Office of the Register of Deeds and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the Officer shall cause the building or structure to be removed or demolished.

Sec. 4-26. – Service of Complaint and Order (G.S. § 160D-1129(h)).

- (a) Complaints or orders issued by the Officer pursuant to this Article shall be served upon persons either personally or by registered or certified mail so long as the means used are reasonably designed to achieve actual notice. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is refused, but the regular mail is not returned by the post office within ten (10) days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the Nonresidential Property affected.
- (b) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Officer in the exercise of reasonable diligence, and the Officer makes an affidavit to that effect, the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the Town at least once no later than the time at which personal service would be required under this article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the Nonresidential Property affected.

Sec. 4-27. – Liens (G.S. § 160D-1129(i)).

- (a) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the Officer are a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority,

and be collected as the lien for special assessment provided in G.S. Chapter 160A, Article 10.

- (b) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition expended by the Officer is also a lien on any other real property of the owner located within the Town's corporate limits except for the owner's primary residence. The additional lien provided in this subsection is inferior to all prior liens and shall be collected as a money judgment.
- (c) If the Nonresidential Property is removed or demolished by the Officer, he shall offer for sale the recoverable materials of the Nonresidential Property and any personal property, fixtures, or appurtenances found in or attached to it and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the Officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this Article shall be construed to impair or limit in any way the power of the Town Council to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

Sec. 4-28. – Ejectment (G.S. § 160D-1129(j)).

If any occupant fails to comply with an order to vacate a Nonresidential Property, the Officer may file a civil action in the name of the Town to remove the occupant. Such action shall be filed in the nature of summary ejectment and conducted in accordance with G.S. § 160D-1129(j).

Sec. 4-29. – Supplemental Powers (G.S. § 160D-1129(l)).

This Article authorizes the Officer to exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this section including the following powers in addition to others herein granted:

- (a) To investigate Nonresidential Properties in the Town's planning and development regulation jurisdiction to determine whether they have been properly maintained in compliance with the minimum standards so that the safety or health of the occupants or members of the general public are not jeopardized.
- (b) To administer oaths, affirmations, examine witnesses, and receive evidence.
- (c) To enter upon premises pursuant to subsection 4-20 of this Article for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession.

- (d) To appoint and fix the duties of officers, agents, and employees necessary to carry out the purposes of the ordinances adopted by the Town Council.
- (e) To delegate any of his or her functions and powers under this Article to other officers and agents.

Sec. 4-30. – Appeals (G.S. §§ 160D-1129(m), 160D-1208).

- (a) Appeals shall be governed by G.S. § 160D-1208. The Town Council designates the Board of Adjustments (“Board”) as its appeals board. An appeal from any decision or order of the Officer pursuant to this Article may be taken by any person aggrieved thereby. Any appeal from the Officer shall be taken within ten (10) days from the rendering of the decision or within ten (10) days of service of such order. Such appeal shall be taken by filing with the Officer and with the Board a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Officer shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Officer refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the Officer requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Officer certifies to the Board after the notice of appeal is filed with him/her, that by reason of the facts stated in the certificate (a copy of which shall be furnished to the appellant), a suspension of the requirement would cause imminent peril to life or property. In that case, the requirement shall not be suspended except by a restraining order, which may be granted for due cause upon not less than one (1) day's written notice to the Officer, by the Board, or by a court of record upon petition made pursuant to G.S. § 160D-1208(d). Except where in conflict with G.S. § 160D-1208, all regulations, fees and other rules of the Board shall apply to these appeals.
- (b) The Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Officer, but the concurring vote of four-sevenths (4/7) of the members of the Board shall be necessary to reverse or modify any decision or order of the code enforcement officer. The Board shall have power also in passing upon appeals, in any case where unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

- (c) Every decision of the Board shall be subject to review by the county superior court by proceedings in the nature of certiorari instituted within fifteen (15) days of the Board's decision, but not otherwise.
- (d) Any person aggrieved by an order issued by the Officer, or a decision rendered by the Board, shall have the right, within thirty (30) days after the issuance of the order or rendering of a decision, to petition the superior court for a temporary injunction, restraining the Officer pending a final disposition of the cause.

Sec. 4-31. - Funding (G.S. § 160D-1129(n)).

The Town Council is authorized pursuant to G.S. § 160D-1129 to make appropriations from its revenues necessary to carry out the purpose of this Article and may accept and apply grants or donations to assist in carrying out the provision of the adopted ordinances.

Sec. 4-32. - Eminent Domain (G.S. § 160D-1129(o)).

Nothing in this Article shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of property by the power of eminent domain under the laws of this state nor as permitting any property to be condemned or destroyed except in accordance with the police power of the state.

Sec. 4-33. - Definitions (G.S. § 160D-1129(p)).

As used in this Article, the following definitions apply:

- (a) *Parties in Interest.* All individuals, associations, and corporations who have interests of record in a nonresidential building or structure and any who are in possession thereof.
- (b) *Nonresidential Property.* Shall have the same meaning as defined in Sec. 4-65.
- (c) *Vacant Industrial Warehouse.* Any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one (1) year and has not been converted to another use.
- (d) *Vacant Manufacturing Facility.* Any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one (1) year and has not been converted to another use.

Sec. 4-34 - 4-49. – Reserved.

Division II – Maintenance Standards and Penalties

Sec. 4-50. - Penalties (G.S. § 160D-1129(k)).

- (a) It shall be unlawful for the owner of any Nonresidential Property to fail, neglect or refuse to repair, alter or improve the Nonresidential Property, or to vacate and close and remove or demolish, or to vacate and close the Nonresidential Property upon order of the Officer duly made and served as provided in this Article, within the time specified in such order; and each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense.
- (b) It shall be unlawful for the owner or agent of the owner of any Nonresidential Property, with respect to which an order has been issued to occupy or permit the occupancy of the building after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, and removal or demolition, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.
- (c) Any owner who fails to comply with an order of the Officer to repair, alter or improve the Nonresidential Property or to vacate and close and remove or demolish the Nonresidential Property, or vacate and close the Nonresidential Property within the time specified in the order, shall be subject to a civil penalty in the amount of fifty dollars (\$50.00) for the first day of noncompliance and fifty dollars (\$50.00) for each day thereafter until the Nonresidential Property is brought into compliance with the order. The civil penalty may be recovered by the Town in a civil action in the nature of a debt if the owner does not pay the penalty. The Town shall be entitled to its reasonable attorneys' fees and costs associated with its enforcement of this Article. Enforcement by any remedy provided in this Article shall not prevent enforcement by any other remedy provided in this Article or in other ordinances or laws.

Sec. 4-51. - Minimum External Maintenance Standards.

It shall be the responsibility of the owner of Nonresidential Property in the Town's corporate limits that said property be maintained in compliance with all applicable provisions herein. The following violations shall be corrected subsequent to the notice of violations as enumerated herein:

- (1) Exit requirements.
 - a. Minimum number of exits shall conform to the requirements of the state building code as applicable.
 - b. Every stairway, deck, porch, and balcony, and all appurtenances attached thereto, including without limitation, handrails, and guardrails, shall be

maintained in a structurally sound condition, in good repair. Each shall be properly anchored and capable of supporting live or dead loads.

(2) Electrical facilities.

- a. No receptacles, ceiling fixtures, or other fixtures shall be hanging loose, unless designed and rated for that purpose.
- b. All switches and receptacles shall be safe.
- c. There shall be no unsafe wiring.
- d. There shall be no drop or extension cords in excess of six (6) feet in length used in place of permanent wiring.
- e. No circuits shall be overloaded.
- f. Fuses shall be sized correctly and not bridged out.
- g. All wiring shall be in accordance with the National Electrical Code.
- h. All breaker boxes, wiring, junction boxes, busways, or other electrical enclosures shall be in good condition and maintained to prevent shock hazard.

(3) Exterior walls.

- a. There shall be no unsafe wall conditions such that the plumbline from the top center of studs falls outside the base plate at any point along the wall.
- b. Maximum spacing for studding, providing they show signs of being weak or overloaded, shall comply with the requirements of the state building code.
- c. Studs or other structural members shall be structurally sound and not likely to cause structural weakness in the future.
- d. There shall be no broken or cracked structural members.
- e. All siding shall be reasonably weathertight, with no holes or excessive cracks or decayed boards, or siding material.
- f. There shall be no loose siding.
- g. There shall be no deterioration because of lack of preventative maintenance consisting of painting, waterproofing, and repair.

- h. All door fenestration shall be in operable condition.
- (4) Roofs.
- a. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the dead and live loads, including rafters and ceiling, or floor joists.
 - b. The roof and flashing shall be sound, tight, and not have defects which admit water or rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior of the structure. Roof drains, gutters, scuppers, and downspouts shall be maintained in good repair, and free from obstructions. Roof water shall not be discharged in a manner that creates a health or safety hazard.
- (5) Porches, vestibules, decks and external covered areas.
- a. The floor, ceiling, and roof shall be equal to requirements set forth in this article, except sills, joists and floors need not be level if providing drainage of floors; floors need not be weathertight.
 - b. Every stairway, deck, porch and balcony, and all appurtenances attached thereto, including, without limitation, handrails, and guardrails, shall be maintained in a structurally sound condition, in good repair. Each shall be properly anchored, and capable of supporting imposed loads.
- (6) Windows.
- a. Windows, where provided, including frames, sash components, and glazing shall be maintained in good condition, with no broken, cracked, or missing glazing. Broken or missing glass may not be replaced with material other than glass.
- (7) Property Maintenance.
- a. Building structure. Exterior wood surfaces not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative with sufficient frequency to prevent deterioration.
 - b. Open areas. There shall be no heavy undergrowth or accumulation of plant growth which is noxious or detrimental to health, or because it is overgrown, may provide harborage for criminal activity. Any yard or lawn shall be regularly maintained and well as any landscaping and trees on the property.

- c. Infestation. Nonresidential Property and grounds shall be maintained free of infestation by rodents, insects and other pests.
- d. Chimneys and towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.
- e. The exteriors of Nonresidential Property shall be painted or maintained in a way that does not exhibit any appearance of Disrepair. Disrepair means falling into poor condition due to damage, neglect, decay, or similar condition with conditions including, but are not limited to, overgrown or dead vegetation, extensively chipped or peeling exterior paint, exterior walls in poor condition, porches and steps in poor condition, roof in poor condition, broken windows and other signs of general disrepair, accumulation of newspapers, circulars, flyers or mail, past due utility notices or disconnected utilities, accumulation of trash, junk or debris, the absence of window coverings such as curtains, damaged blinds, or shutters.

Sec. 4-52. - Minimum Interior Maintenance Standards.

The interior of a structure, including wall and ceiling coverings, and equipment therein shall be maintained in good order, shall be structurally sound, and be in a sanitary condition. Occupants shall keep that part of the building or structure which they occupy or control in a clean and sanitary condition.

(1) Exit requirements.

- a. Minimum number of exits shall conform to the requirements of the state building code as applicable.

(2) Plumbing systems and facilities.

- a. In general, all fixtures and piping shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks, and defects. All plumbing shall be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary, and functional condition.
- b. Plumbing fixtures shall have adequate clearance for usage and cleaning.
- c. Where it is found that a plumbing system in a building or structure creates an unsafe condition that is hazardous to the occupants, or by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation deterioration or damage, or for similar reasons, the

Officer shall require the defects to be corrected to eliminate the unsafe condition.

(3) Heating facilities.

- a. Building shall be weatherproof.
- b. Heating systems shall be maintained in good order and repair and shall be of sufficient capacity so as to heat all occupied areas in accordance with the state building code.
- c. All safety controls and all clearances to combustible materials for electrical equipment which produces heat shall be maintained in effective operation.
- d. Other heating facilities, where provided, shall meet the requirements of the state building code.
- e. All electric, gas and heating oil heating equipment installed on the property shall be listed by Underwriters' Laboratories, Inc. or American Gas Association and installed in accordance with the provisions of the state building code.
- f. All mechanical appliances, including ventilation and air conditioning or cooling systems, or appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.
- g. All fuel burning equipment or appliances shall be connected to an approved chimney or vent. Fuel burning equipment and appliances labeled for unvented use are an exception to this requirement.
- h. All required clearances to combustible materials shall be maintained.
- i. All safety controls for fuel burning equipment shall be maintained in effective operation.

(4) Electrical facilities.

- a. No receptacles, ceiling fixtures, or other fixtures shall be hanging loose unless designed and rated for that purpose.
- b. All switches and receptacles shall be safe.
- c. There shall be no unsafe wiring.

- d. There shall be no drop or extension cords in excess of six (6) feet in length used in place of permanent wiring.
 - e. No circuits shall be overloaded.
 - f. Fuses shall be sized correctly and not bridged out.
 - g. All wiring shall be in accordance with the National Electrical Code.
- (5) Structural standards.
- a. Foundation.
 - 1. Beneath the building or structure there shall be firm ground, which is reasonably dry, properly drained and no water shall be running under the building or structure.
 - 2. There shall be sound footings and adequate bearing.
 - 3. There shall be sound piers and no loose mortar or masonry.
 - 4. There shall be no piers in which the plumbline from the top center falls outside the middle one-third ($\frac{1}{3}$) of the pier base.
 - 5. There shall be no isolated masonry piers exceeding in height ten (10) times the least dimension of the pier.
 - 6. There shall be no wood stiff-knee piers.
 - b. Floors.
 - 1. Flooring shall be weathertight without holes or excessive cracks which permit air to penetrate rooms.
 - 2. Flooring or floor covering shall be reasonably smooth and not decayed, fire damaged or worn through.
 - 3. There shall be no loose flooring.
 - 4. Floors shall be reasonably level.
 - 5. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the dead and live loads.

- c. Interior load bearing walls.
 - 1. There shall be no unsafe wall conditions such that the plumbline from the top center studs falls outside the base plate at any point along the wall.
 - 2. Maximum spacing for studding, providing the studs show signs of being weak or overloaded, shall comply with the requirements of the state building code.
 - 3. Studs or other structural members, including posts and columns, shall be structurally sound and not likely to cause structural weaknesses in the future.
 - 4. There shall be no broken or cracked structural members.
- d. Interior porches, landings, and vestibules.
 - 1. The floor and ceiling shall be equal to the requirements set forth in this article.
 - 2. Every stairway, deck, porch and balcony and all appurtenances attached thereto, including, without limitation, handrails, and guardrails, shall be maintained in a structurally sound condition and in good repair.
 - 3. Any interior porch, landing or vestibule shall be properly anchored and capable of supporting live and dead loads.

Sec. 4-53. - Minimum Maintenance Standards for Vacant Nonresidential Property.

- (a) The exterior maintenance standards set for in section 4-51 shall apply to all vacant Nonresidential Property.
- (b) The interior maintenance standards set forth in section 4-52 shall not apply to vacant Nonresidential Property unless one or more of the following serious conditions is present on the property:
 - (1) Overall conditions present a serious health or safety hazard.
 - (2) The building or structure is a breeding area for rodents or insects.
 - (3) The building or structure presents a fire hazard.
 - (4) The building or structure is structurally unsafe and presents a threat to the safety of code enforcement personnel, fire department personnel and law enforcement officers or members of the general public.

- (5) The building or structure is frequented by vagrants or homeless individuals.
- (6) The building or structure is not properly secured to prevent unauthorized access.
- (c) If the Officer orders a Nonresidential Property vacated and closed pursuant to this Article, the owner shall secure such Nonresidential in accordance with the guidelines for securing a Nonresidential Property provided by the Officer.
- (d) For purposes of this subsection, a Nonresidential Property is vacant as defined in section 4-65.

Sec. 4-54. - Alternative remedies.

Enforcement by any remedy provided in this Article shall not prevent enforcement by any other remedy provided in this Article or in other ordinances or laws; including but not limited to G.S. 160D, Art. 11; G.S. § 160A-193 and G.S. § 160A-174.

Sec. 4-55 - 4-64. – Reserved.

Article V. Vacant Nonresidential Property Registration Requirement

Sec. 4-65. – Definitions.

For the purpose of this Article, certain words and phrases used in this subchapter are defined as follows:

- (a) *Days.* Consecutive calendar days.
- (b) *Evidence of Vacancy.* Any aesthetic condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions include disrepair or the absence of furnishings or personal items consistent with commercial habitation, statements by neighbors, passersby, delivery agents or government employees that the property is vacant.
- (c) *Legally Occupied.* Occupancy by the Owner or any business or individual whose presence therein is with the Owner's consent and with utilities furnished to the property.
- (d) *Nonresidential Property.* Any real property used or intended to be used for anything other than Residential Property as defined herein.
- (e) *Owner.* Any person, partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in any real property. No trustee in any deed of trust shall be considered an owner.
- (f) *Owner of Record.* The person or entity listed on recorded deed, probated will or heir by intestacy.
- (g) *Residential Property.* A building or portion thereof, designed exclusively for residential occupancy, including one-family, two-family, multiple dwellings, mobile homes, house trailers, boarding and lodging houses, apartment house, and apartment hotels.
- (h) *Vacant.* A Nonresidential Property that has not been Legally Occupied for 180 days.

Sec. 4-66. – Vacant Nonresidential Property Registration Required.

- (a) Any Vacant Nonresidential Property located within the Town's corporate limits must be registered by the Owner with the Town, either of the Owner of a Vacant Nonresidential Property's own accord before receiving a notice of registration requirement ("Notice") or within thirty (30) days of receiving a Notice from the Town's Code Enforcement Officer ("Officer").

- (b) The Officer will send a Notice to the Owner of Record of a Nonresidential Property that exhibits Evidence of Vacancy. The Owner shall register the Nonresidential Property within the time set forth in section (a) above unless the Owner can provide clear and convincing evidence to the Town Manager, within thirty (30) days' receipt of the Notice, that the Nonresidential Property is not Vacant.
 - (1) If, based on the evidence provided, the Town Manager determines that the Nonresidential Property is not Vacant, the property shall not be subject to the registration requirement.
 - (2) If, based on the evidence provided, the Town Manager determines that the Nonresidential is Vacant, the property shall be subject to the registration requirement and the owner shall register the property within thirty (30) days thereafter.
- (c) The Vacant Nonresidential Property registration shall contain:
 - (1) The name of the Owner (corporation or individual);
 - (2) The direct street/office mailing address of the Owner and P.O. Box if applicable; and
 - (3) A direct contact name and phone number and electronic mailing address.
- (d) Any changes in the information in (c)(1) through (c)(3) above shall be reported to the Town within 30 days of such changes.
- (e) Registration must be renewed annually, and it shall be the Owner's responsibility to timely renew the registration.
- (f) A Vacant Nonresidential Property shall remain subject to the annual registration as long as the building remains Vacant.
- (g) Once the Nonresidential Property is no longer Vacant, the Owner must provide written proof of occupancy to the Town.

Sec. 4-67. – Civil Penalty.

- (a) Any Owner who fails to register or renew a registration for a Vacant Nonresidential Property as required herein shall be subject to a civil penalty in the amount of twenty dollars (\$20.00) for the first day of noncompliance and twenty dollars (\$20.00) for each day thereafter, as a separate and distinct offense, until the Nonresidential Property is registered as required herein. The civil penalty may be recovered by the Town in a civil action in the nature of a debt if the Owner does not pay the civil penalty. The Town shall be entitled to its reasonable attorneys' fees and costs associated with enforcement of this Article.

- (b) If when renewing a registration, the Owner renews no later than ten (10) days after the registration becomes due, the civil penalty in subsection (a) shall not be assessed. If the Owner does not renew the registration within ten (10) days after the registration becomes due, the civil penalty in subsection (a) shall be assessed starting on the eleventh day.

Sec. 4-68 - 4-75. Reserved.

