



## AGENDA

**Tuesday, September 24, 2024: 3:00 PM**

**Town Council Work Session**

**C. Michael Haney Community Room: Southern Pines Police Department**

**450 W. Pennsylvania Ave**

### **1. CALL TO ORDER**

### **2. PLEDGE OF ALLEGIANCE**

### **3. TOWN MANAGER'S COMMENTS**

### **4. ACTION ITEMS**

#### **a. Consider PD-04-24: Written Decision for WNC8 Distribution Center PDP**

Staff has prepared a draft Written Decision for application PD-04-24, WNC8 Distribution Center PDP, for the Town Council's review and approval.

#### **b. Ordinance #3078 - Directing the Housing Inspector to Remove or Demolish the Property Herein Described as Unfit for Human Habitation and Directing that a Notice be Placed Thereon that the Same Not Be Occupied Until Violations Remedied.**

Staff is requesting approval for the demolition of an unsafe building at 1225 & 1245 Old U.S. 1 Hwy, Southern Pines

#### **c. Ordinance #3079 - Directing the Housing Inspector to Remove or Demolish the Property Herein Described as Unfit for Human Habitation and Directing that a Notice be Placed Thereon that the Same Not Be Occupied Until Violations Remedied**

Staff is requesting approval for demolition of an unsafe building at 312 S Gaines Street, Southern Pines.

#### **d. Ordinance #3080 - Budget Amendment to Water - Sewer Upgrade Capital Project Fund**

Staff requests approval on this budget amendment, which was mistakenly left out of the Business Meeting packet.

#### **e. Town Council Rules of Procedure**

At the request of Council, Town Attorney Mac McCarley has Incorporated the Council's comments into a new draft set of procedural rules for the Town Council. He will discuss the proposed rules and next steps for adopting them, if desired by Council.

#### **f. Ordinance #3081 - Amend the Town Code of Ordinances, Chapter 96 - Solid Waste, Recycling & Yard Waste**

Staff is requesting an amendment to the Town Code of Ordinances to reflect changes with the Town's trash and recycling program.

### **5. COUNCIL UPDATES AND DISCUSSION**

### **6. COUNCIL ROUNDTABLE**

### **7. ADJOURNMENT**

*Meetings/work sessions of the Southern Pines Town Council are now available on the Town's [YouTube channel](https://bit.ly/3hXx2Qk). Video of the Town Council meetings will be live streamed on the channel for viewing either during the meetings or after they have concluded. Please note, the video is provided only for the purposes of viewing the meetings; public comments or questions are not accepted via the live stream. To receive notifications when new content is published, please "subscribe" to the Town's channel at <https://bit.ly/3hXx2Qk>*

## **Agenda Item**

**To:** Reagan Parsons, Town Manager

**From:** Alaina Mallette, Senior Planner

**Via:** BJ Grieve, Planning Director

**Subject:** PD-04-24: Planned Development District - Preliminary Development Plan for a portion of Phase 2 of Southern Pines Corporate Park, addition of ±65,200 square-foot distribution center on ±15.77 acres on the west side of Air Tool Drive; Petitioner: SunCap Property Group; Authorized Agent: Koontz Jones Design; Property Owner: RAB Investments, LLC

**Date:** September 24, 2024

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### **I. PURPOSE**

Per UDO §2.14.6(F)(11), “A written decision must be approved for every quasi-judicial application, either by entering the decision at the end of the hearing or at a subsequent meeting of the hearing body, which shall generally be the next scheduled meeting. As part of the written decision, the hearing body must make findings of fact and conclusions as to applicable standards and any conditions. The chair may direct the Planning Director or Town Attorney to draft a written decision for approval by the hearing body at its next regularly scheduled meeting, which approval may be on a consent agenda.”

Planning staff have prepared a draft of the written decision of the Town Council’s approval of application PD-04-24 that was heard by the Town Council at the regular meeting on September 10, 2024 that the Town Council may now wish to adopt. If the Town Council approves the drafted written decision, the Mayor will sign the document. The original signed version will be delivered to the applicant, authorized agent, and property owner with Planning staff and the Town Clerk maintaining copies of the signed document for their respective files.

### **II. SUMMARY OF APPLICATION REQUEST**

Patrick Theodossiou of SunCap Property Group and Bob Koontz of Koontz Jones Design have submitted a Planned Development District – Preliminary Development Plan application pursuant to §2.18.5 of the Town of Southern Pines Unified Development Ordinance for the addition of a ±65,200 square-foot distribution center, including warehousing, office, and courier services, within the Southern Pines Corporate Park on a ±15.77-acre portion of the parcels identified as PINs 858200843785 and 858216941750 (PARIDs 00039569 and 00031777, respectively). Per the Moore County tax record, the subject properties are owned by RAB Investments, LLC. The development also includes an access drive and multimodal path, bringing the total project area to ±18.5 acres of land.

### **III. TOWN COUNCIL EVIDENTIARY HEARING AND ACTION**

A public evidentiary hearing regarding a proposed Preliminary Development Plan (PDP) for the Southern Pines Corporate Park Planned Development was called to order with five members present on September 10, 2024. The oath was administered to all witnesses choosing to speak. Planning staff entered the September 10, 2024 Staff Report as Town's Exhibit A and staff's September 10, 2024 presentation as Exhibit B. A North Carolina Department of Transportation letter dated September 5, 2024, and received by staff on September 10, 2024, was entered into the record as the Town's Exhibit C. The authorized agent, Bob Koontz of KoontzJones Design, entered their presentation as Applicant's Exhibit F. Qualified witnesses entered a letter from Dr. J.H. Carter III & Associates, Inc. dated September 9, 2024, as Applicant's Exhibit A, a trip generation table as Applicant's Exhibit B, and an Appraisal Impact Assessment dated July 3, 2024, from Village Appraisers, LLC., as Exhibit D. The Applicant did not present an Exhibit C nor E. After closing the hearing, Town Council discussed and voted on the draft findings of fact.

The Town Council voted 5-0 to adopt with conditions Attachment 1 of the September 10, 2024, staff report as Finding of Facts. The Town Council then voted 5-0 to approve PD-04-24 as presented at the September 10, 2024 Town Council Meeting.

### **IV. ATTACHMENTS**

1. Written Decision of the Board: PD-04-24

### **V. TOWN COUNCIL ACTION**

The Town Council may wish to take one of the following actions.

1. No action;
2. **Accept the Written Decision for PD-04-24 as prepared by the Town staff;**
3. An action listed above with the following conditions...; or
4. Action not listed above...



**CASE NUMBER: PD-04-24**

**FINDINGS OF FACT, DECISION OF THE BOARD, AND ORDER IN THE MATTER  
OF A PRELIMINARY DEVELOPMENT PLAN APPLICATION FOR THE SOUTHERN  
PINES CORPORATE PARK PLANNED DEVELOPMENT, WNC8 DISTRIBUTION  
CENTER**

**DESCRIPTION OF MATTER**

Patrick Theodossiou of SunCap Property Group and Bob Koontz of Koontz Jones Design have submitted a Planned Development District – Preliminary Development Plan application pursuant to §2.18.5 of the Town of Southern Pines Unified Development Ordinance for the addition of a ±65,200 square-foot distribution center, including warehousing, office, and courier services, within the Southern Pines Corporate Park on a ±15.77-acre portion of the parcels identified as PINs 858200843785 and 858216941750 (PARIDs 00039569 and 00031777, respectively). Per the Moore County tax record, the subject properties are owned by RAB Investments, LLC. The development also includes an access drive and multimodal path, bringing the total project area to ±18.5 acres of land.

A public evidentiary hearing regarding a proposed Preliminary Development Plan (PDP) for the Southern Pines Corporate Park Planned Development was called to order with five members present on September 10, 2024. The oath was administered to all witnesses choosing to speak. Planning staff entered the September 10, 2024 Staff Report as Town's Exhibit A and staff's September 10, 2024 presentation as Exhibit B. A North Carolina Department of Transportation letter dated September 5, 2024, and received by staff on September 10, 2024, was entered into the record as the Town's Exhibit C. The authorized agent, Bob Koontz of KoontzJones Design, entered their presentation as Applicant's Exhibit F. Qualified witnesses entered a letter from Dr. J.H. Carter III & Associates, Inc. dated September 9, 2024, as Applicant's Exhibit A, a trip generation table as Applicant's Exhibit B, and an Appraisal Impact Assessment dated July 3, 2024, from Village Appraisers, LLC., as Exhibit D. The Applicant did not present an Exhibit C nor E. After closing the hearing, Town Council discussed and voted on the draft findings of fact. Detailed discussion during the evidentiary hearing can be found in the meeting minutes on record in the Town Clerk's office and online.

**FINDINGS OF FACT**

1. The Town Council finds that the application is complete and that the facts submitted are relevant to the case because the request for Preliminary Development Plan approval has met the specified submittal requirements as required in the Town of Southern Pines UDO Appendices, the applicants have submitted adequate evidence addressing criteria for a

Preliminary Development Plan, and the evidence submitted was sworn testimony by qualified experts or provided through substantiated documentation.

2. The Town Council finds that the application complies with UDO §2.18.5(H) Criteria for a Preliminary Development Plan, Criterion 1 (i.e., the application demonstrates that it will achieve the purposes of the PD district and the UDO), in that the “Southern Pines Corporate Park” CDP is a mixed-use, primarily industrial development that was first approved in 2007 as a Conditional Use Permit (now called Special Use Permit) and re-entitled in 2014 (Z-01-14). The purpose of the original conditional use permit was to establish a master plan and open space, and the rezoning to Planned Development allowed the “Southern Pines Corporate Park” to expand the list of permitted uses while following the Planned Development district approval processes. According to §3.5.14 of the UDO, Town Council does not find significant inconsistency between the Preliminary Development Plan and the purpose of the CDP or PD districts, generally, considering the commitments to the creation of the greenway trail, improvements of Air Tool Drive, and conditions of approval.
3. The Town Council finds that the application complies with UDO §2.18.5(H) Criteria for a Preliminary Development Plan, Criterion 2 (i.e., the Preliminary Development Plan is consistent with the Conceptual Development Plan and conforms to all applicable provisions of this UDO), in that the application and commitments contain enough information to be deemed generally consistent with the CDP and UDO. Further detailed analysis of compliance with both the CDP and the UDO will involve representatives from all other Community Development departments (such as Streets, Engineering, Fire, etc.) and will occur during site plan review. The greenway improvements or their financial surety, if necessary, will be monitored and reviewed by the Planning Department, Town Engineer, and Town Manager. Improvements required by the traffic impact analysis will be agreed to by the Town, the Applicant, and North Carolina Department of Transportation, as stated in the condition of approval.
4. The Town Council finds that the application complies with UDO §2.18.5(H) Criteria for a Preliminary Development Plan, Criterion 3 (i.e., proposed Development is located in an area of the Town that is appropriate), in that the proposed development is the first PDP of the second phase of the “Southern Pines Corporate Park” CDP, but third to existing development that was built in 2007. The “Southern Pines Corporate Park” is intended to have at least 75% industrial land uses, and the proposed Preliminary Development Plan adds additional industrial square footage to the Park. However, Air Tool Drive and associated bridge to the proposed lot need improvements. With the commitments made and conditions of approval, the proposed development is located in an appropriate area of town.
5. The Town Council finds that the application complies with UDO §2.18.5(H) Criteria for a Preliminary Development Plan, Criterion 4 (i.e., proposed Development will not cause the need for inefficient extensions and expansions of public facilities, utilities and services), in that there are sufficient utilities available to the site and the cost of extensions to the site of said utilities will be borne by the Applicant. The cost of any transportation-related improvements will be borne by the Applicant and the Property Owner. Development of the subject property in the manner proposed is an efficient way to increase employment options within our community.

## CONCLUSION AND DECISION

Therefore, by a vote of 5-0, the Town Council voted to approve with conditions the WNC8 Distribution Center Preliminary Development Plan within the Southern Pines Corporate Park, i.e., PD-04-24, with the following additional conditions as drafted by the applicant and presented in the Town's Exhibit B:

1. The Preliminary Development Plan's narrative shall be modified to read as follows:

“Per UDO §4.11.10(I) and the Southern Pines Corporate Park Conceptual Development Plan, the 3,731 linear feet of required greenway trail within Phase 2 of development (per file #CU-03-06 and file #Z-01-14) shall be either constructed or a complete financial surety secured, submitted (to the Town of Southern Pines), and accepted (by the Town of Southern Pines) by September 25, 2025. The greenway trail shall, at a minimum, be designed to the standards as shown in the Southern Pines Corporate Park plans designed by Hobbs Upchurch & Associates and received by the Town of Southern Pines on May 14, 2007.”

2. As required to improve connectivity within developments, promote mobility, and enhance walkability, a crosswalk shall be added at the intersection of the proposed access road and Air Tool Drive to provide a safer crossing across Air Tool Drive and to connect the proposed sidewalk along the access road to the future required sidewalk along Air Tool Drive.
3. Any improvements recommended by the final approved TIA, after review and discussion by the Town of Southern Pines, North Carolina Department of Transportation, and the Applicant, will be implemented as described in the document and agreed between the parties.

This is the 24<sup>th</sup> day of September, 2024.

FOR THE TOWN COUNCIL:

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Taylor Clement, Mayor



**Southern  
Pines** NORTH  
CAROLINA

☎ (910) 692-2720

🌐 [www.sopinesnc.info/fire](http://www.sopinesnc.info/fire)

📍 500 W Pennsylvania Avenue  
Southern Pines, NC 28387

## Agenda Item

**To: Reagan Parsons, Town Manager**

**From: Mike Cameron, Fire Chief**

**Subject: Request approval for demolition of unsafe building.**

**Date: September 24, 2024**

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### I. SUMMARY:

On January 4, 2024, the Fire Marshal received a complaint concerning the abandoned structures located at 1225 (Parcel ID 20041051 / PIN 857112857302) and 1245 Old U.S. 1 Hwy (Parcel ID 00048198 / PIN 857112856330). Certified letters were sent to the owner requesting an inspection of the property. After the letters were returned, contact was made with the owner's representative and an inspection was scheduled for February 19, 2024.

During the inspection on February 19, 2024, it was determined that the buildings were in violation of N.C. G.S. Chapter 160D, Article 11 and the Unsafe Buildings Ordinance Chapter 153 of the Town of Southern Pines Code of Ordinances.

February 23, 2024 a sign was affixed to the building stating, "This building is dangerous and unfit for any use, the use or occupancy of this building for human habitation is prohibited and unlawful".

February 26, 2024 contact was made with another representative of the owner who agreed with the findings of the inspection and that they would like the Town to have the buildings removed.

February 27, 2024 a letter along with the Release and Hold Harmless agreement was sent certified mail to the address provided.

May 6, 2024 after no response regarding the Release Hold Harmless Agreement, a notice of violation and order was mailed certified mailed outlining the violations along with photographs and the order to comply with removal of the buildings. A deadline of July 6, 2024 was established. No response to the Town has been received.

## **II. ATTACHEMENTS:**

1. Copy of the request for inspection dated January 8, 2024.
2. Copy of the Release Hold Harmless Agreement dated February 27, 2024.
3. Copy of the Order dated May 6, 2024
4. Copy of bids for demolition.

## **III. TOWN COUNCIL ACTION**

Property Owner: Marian W. Cornell, Cornell Radio & TV Service.  
Property Address: 1225 and 1245 Old U.S. 1 Hwy Southern Pines, N.C. 28387  
Property Identification:  
Parcel ID/PIN 00040151/857112857302,  
Parcel ID/ PIN 00048198/857112856330

### ***MINIMUM HOUSING CODE*** ***“ORDINANCE TO REMOVE OR DEMOLISH”***

**AN ORDINANCE DIRECTING THE HOUSING INSPECTOR TO REMOVE OR DEMOLISH THE PROPERTY HEREIN DESCRIBED AS UNFIT FOR HUMAN HABITATION AND DIRECTING THAT A NOTICE BE PLACED THEREON THAT THE SAME NOT BE OCCUPIED UNTIL VIOLATIONS REMEDIED.**

*Whereas*, the Town Council finds that the property described herein is unfit for human habitation under the Town’s Minimum Housing Code, and that all of the provisions of the Minimum Housing Code have been complied with as a condition of the adoption of this ordinance; and

*Whereas*, said building should be removed or demolished as directed by the Fire Marshal, and should be placarded by placing a notice prohibiting use for human habitation; and

*Whereas*, the owner of said building has been given a reasonable opportunity to bring the building up to standards of the Minimum Housing Code in accordance with N.C.G.S. § 160D-1203 pursuant to an order issued by the Building Inspector on May 6, 2024, and the owner having failed to comply with the order;

*Now, Therefore*, be it ordained by the Town Council that:

***Section I.*** The Fire Marshal is hereby authorized and directed to proceed to **“REMOVE OR DEMOLISH”** the above described building in

accordance with his order to the owner thereof dated May 6, 2024 and with the Minimum Housing Code and N.C.G.S. § 160D-1203.

- Section II.** (a) The cost of the repair and closure shall constitute a lien against the real property upon which the cost was incurred. The lien shall be filed in the office of the County Tax Collector, and shall have the same priority and be collected in the same manner as the lien for special assessments in Article 10 of N.C.G.S. Chapter 160A.
- (b) The Fire Marshal shall sell the materials of the dwelling, and any personal property, fixtures, or appurtenances found in or attached to the building, and shall credit the proceeds of the sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the Superior Court by the public 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.

**Section III.** It shall be unlawful for any person to remove or cause to be removed said placard from any building to which it is affixed. It shall likewise be unlawful for any person to occupy or to permit the occupancy of any building herein declared to be unfit for human habitation.

**Section VI.** This ordinance shall become effective upon its adoption.

**ATTEST**

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**Beth Robertson, Clerk**

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**Honorable Taylor Clement, Mayor**

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_



500 W. Pennsylvania Ave.  
Southern Pines, NC 28387

Phone (910) 692-2720  
Fax (910) 692-2706

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**January 4, 2024**

**Case# 2024-0003**

Marian W. Cornell  
850 N. May St.  
Southern Pines, NC 28387

**Re:** Cornell Radio & TV Service  
1225 Old U.S. 1 Hwy  
Southern Pines, NC 28387  
Property ID Number: 00040151/857112857302

The above described building is in a condition that appears to violate the Building Code, Title XV, Chapter 150 of the Town of Southern Pines Code of Ordinances. A report has been received indicating the conditions of this property falls within the scope of the Building Code and exterior observation indicates that violations do exist. An interior inspection has not been conducted as of this date.

A complete interior and exterior inspection is scheduled for **[January 18, 2024 at 10:00 a.m.]**. It will be necessary for you, your agent and/or the tenant to be present at the building to provide access for the inspection. The inspection will be conducted in accordance with the Town of Southern Pines Building Code. If necessary, I am authorized to apply for an administrative inspection warrant in this matter.

Upon completion of the inspection, a hearing will be scheduled within approximately 30 days for the purpose of finding the facts as to whether or not the condition of such property falls within the scope of the Building Code. At the hearing, you shall be entitled to offer such evidence as is relevant or material to the questions sought to be determined or the remedies to be effected. Further information as to this matter may be obtained by contacting me at:

  
Kenneth R. Skipper  
Assistant Chief/Fire Marshal  
500 W. Pennsylvania Ave.  
Southern Pines, NC 28387  
**910-692-2720**  
[kskipper@southernpines.net](mailto:kskipper@southernpines.net)



500 W. Pennsylvania Ave.  
Southern Pines, NC 28387

Phone (910) 692-2720  
Fax (910) 692-2706

**January 4, 2024**

**Case# 2024-0004**

Marian W. Cornell  
850 N. May St.  
Southern Pines, NC 28387

**Re:** Cornell Radio & TV Service  
1245 Old U.S. 1 Hwy  
Southern Pines, NC 28387  
Property ID Number: 00048198/857112856330

The above described building is in a condition that appears to violate the Building Code, Title XV, Chapter 150 of the Town of Southern Pines Code of Ordinances. A report has been received indicating the conditions of this property falls within the scope of the Building Code and exterior observation indicates that violations do exist. An interior inspection has not been conducted as of this date.

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Kenneth R. Skipper  
Assistant Chief/Fire Marshal  
500 W. Pennsylvania Ave.  
Southern Pines, NC 28387  
**910-692-2720**  
[kskipper@southernpines.net](mailto:kskipper@southernpines.net)

Wall To Wall  
160 Rosy Rd  
Aberdeen, NC 28315-5820 USA  
walltowallpowercleaning1@gmail.com

Estimate

ADDRESS  
Ken Skipper  
Town Of Southern Pines

ESTIMATE # 1039  
DATE 08/13/2024

| ACTIVITY                                                                                                                                                    | QTY | RATE       | AMOUNT       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|------------|--------------|
| <b>Sales</b><br>Building Demolition 1225-1245 Old US Hwy 1<br><br>Demo all building and contents. Haul off all materials. Grade area and install Silt fence | 1   | 127,000.00 | 127,000.00   |
| TOTAL                                                                                                                                                       |     |            | \$127,000.00 |

Accepted By

Accepted Date

ESTIMATE

REYNOLDS LANDSCAPE  
P.O. Box 3885  
Pinehurst, NC 28374

reynoldslandscape@yahoo.com  
+1 (910) 638-7379

Bill to

Ken Skipper  
Town of Southern Pines

Estimate details

Estimate no.: 1158  
Estimate date: 08/11/2024

| #                                                                                                                                                                                                                                                                            | Date | Product or service     | Description   | Amount      |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|------------------------|---------------|-------------|
| 1.                                                                                                                                                                                                                                                                           |      | 1225-1245 Old US HWY 1 | Building Demo | \$99,900.00 |
| Furnish all equipment and labor to perform and complete all work required for the demolition and site work. Remove the structure and resulting debris from the lot. Finish grade lot and over seed to control erosion. Install silt fence on perimeter of construction area. |      |                        |               |             |
| Total \$99,900                                                                                                                                                                                                                                                               |      |                        |               |             |
| Total                                                                                                                                                                                                                                                                        |      |                        |               | \$99,900.00 |

Note to customer

Thank you for your business.

Accepted date

Accepted by



500 W. Pennsylvania Ave.  
Southern Pines, NC 28387

Phone (910) 692-2720  
Fax (910) 692-2706

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February 27, 2024

Marian W. Cornell  
C/O John F Cornell Jr.  
411 Morrison Ave.  
Raleigh, NC 27608

RE: Case # 2024-0003 and 2024-0004

Dear Ms. Cornell,

Please find the enclosed Release and Hold Harmless Agreement. As we discussed, this agreement gives your authorization to proceed with the demolition of the dilapidated structures at 1225 and 1245 Old US 1 Hwy in Southern Pines, N.C. In addition, it gives your authorization to place a lien on the property for all related costs to the demolition and clearance of the structure.

Please sign the agreement only in the witness of a Notary Public so that the Notary can properly certify your signature on the document. Upon completion, please return the signed document in the enclosed envelope as soon as possible.

I will proceed to obtain bids on the project so that we can obtain the lowest possible bid and therefore hold the costs down as much as possible. If you have any questions, please call me at 910-692-2720.

Kenneth R. Skipper  
Assistant Fire Chief/Fire Marshal  
500 W. Pennsylvania Ave.  
Southern Pines, NC 28387  
**910-692-2720**  
[kskipper@southernpines.net](mailto:kskipper@southernpines.net)

**RELEASE AND HOLD HARMLESS AGREEMENT**

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**WHEREAS**, the Town of Southern Pines has deemed it necessary that the premises herein described below should be cleared of the described building and all other objectionable items; and

**WHEREAS**, the undersigned landowner(s) has (have) agreed to allow the Town of Southern Pines Code Enforcement Officer to so contract to clear and clean the premises.

**NOW THEREFORE**, I (we) as owner(s) of the premises do hereby grant to the Town of Southern Pines authority to remove the objectionable buildings, objects and other things in the discretion of the Code Enforcement Officer.

**Premises are described as follows:** Cornell Radio & TV Service building located at 1225 and 1245 Old U.S. Hwy 1 Southern Pines, N.C. 28387. Property ID Number(s) 857112857302 and 857112856330.

And, I (we) \_\_\_\_\_  
landowner(s) do realize that cost of demolition and clearance will be placed as a lien against said property, collectable as taxes and do hereby release and relieve the Town of Southern Pines, the Code Enforcement Officer, their agents and contractors from any and all liability in the performance of clearing and cleaning as herein before set forth.

**WITNESS** my (our) hand(s) this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

State of North Carolina  
County of \_\_\_\_\_

I, \_\_\_\_\_, Notary Public of said State and \_\_\_\_\_  
County, do hereby certify that \_\_\_\_\_  
personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

**WITNESS** my hand and Notarial Seal, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
My Commission expires

\_\_\_\_\_  
Notary Public

# **McFADDEN**

## **HOMES INCORPORATED**

August 1, 2024

Town of Southern Pines

RE: 1245 OLD US ONE

Cornell Radio and TV

Estimate for the following:

Remove existing building

Fill in basement

Install sediment control

Seed and straw area

Estimate includes asbestos report. If asbestos is found, there will be an additional charge.

Total estimate.....\$115,000.00



500 W. Pennsylvania Ave.  
Southern Pines, NC 28387

Phone (910) 692-2720  
Fax (910) 692-2706

## Town of Southern Pines

### FINDINGS OF FACT AND ORDER

May 6, 2024

Marian W. Cornell  
850 N. May St.  
Southern Pines, NC 28387  
C/O John F. Cornell Jr.  
411 Morrison Ave.  
Raleigh, NC 27608

**Re:** Cornell Radio & TV Service  
1225 & 1245 Old U.S. 1 Hwy  
Southern Pines, NC 28387  
Property ID Number(s): 00040151/857112857302, 00048198/857112856330

Dear Ms. Cornell,

The undersigned, pursuant to law, conducted a hearing at the time and place stated in the Complaint and Notice, previously issued and served, regarding code violations occurring at the structure located at 1225 & 1245 Old U.S. 1 Hwy in the Town of Southern Pines, North Carolina. The evidence, including any Answer filed by the owners and parties in interest, contentions, and views of the owners and parties in interest, were carefully analyzed and considered by the undersigned. In addition to other evidence presented, the undersigned personally inspected the structure described above, and such inspection and examination has been considered, along with other evidence offered at this hearing.

Upon the record and all of the evidence offered and contentions made, the undersigned does hereby find the following facts:

|                                |                                                                                   |
|--------------------------------|-----------------------------------------------------------------------------------|
| <b>Property/<br/>Building:</b> | Cornell Radio & TV Service 1225 & 1245 Old U.S. 1<br>Hwy Southern Pines, NC 28387 |
| <b>Owner:</b>                  | Marian W. Cornell 850 N. May St.<br>Southern Pines, NC 28387                      |

1. The above-named owner and parties in interest with respect to the building located at the property specified above were duly served as required by law with written Complaint and Notice which set forth in the Complaint that the structure located at the above address appears to be dangerous to life as defined under Title XV, Chapter 153, Section 153.01 of the Code of Ordinances of the Town of Southern Pines.
2. The following owner(s)/agent(s) listed here did not respond to the complaint and agreement mailed on February 27, 2024.
3. The building described above violated Title XV, Chapter 153 of the Code of Ordinances of the Town of Southern Pines, by reason of the following conditions found to be present and to exist in and about the structure:
4. **RELEVANT FINDINGS OF FACTS BASED ON WHAT IS PRESENTED AT THE HEARING INCLUDE THOSE RELATED TO THE FOLLOWING DEFECTIVE CONDITIONS:**
  - The building was found to be vacant, abandoned and unguarded. Doors and openings to the building were found open and unsecured.
  - The building is in a dilapidated condition and structurally compromised in a way that threatens the safety of occupants, surrounding property and emergency responders. The building has cracks and decay in load-bearing-walls, unstable floors and unsafe exposed electrical wiring. The roof is compromised and leaking in several places and a partial collapse has occurred. Missing flooring and open holes in the floor were observed on the second-floor through to the basement.
  - The property is overgrown and inaccessible from the rear of the buildings.
  - It is likely to cause or contribute to blight, disease, vagrancy, create fire safety hazard, danger to children and attract persons intent on criminal activity and constitutes a public nuisance.

5. (G.S. § 160D-1122): The building is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health, or other property as described under Title XV, Chapter 153 Section 153.01 of the Code of Ordinances of the Town of Southern Pines]
6. Due to these conditions, the building described above is found to be in violation of Title XV, Chapter 153 Section 153.01 of the Code of Ordinances of the Town of Southern Pines, North Carolina, and is in a condition that constitutes a safety hazard or renders it dangerous to life, health, or other property.

**IT IS THEREFORE ORDERED** that the owners of the structure named above are required to bring such structure into compliance with Title XV of the Code of Ordinances of the Town of Southern Pines, North Carolina, by repairing, closing, vacating, and demolishing the building or taking any other necessary steps by a date not later than the **July 6, 2024**

**Any owner of a building, duly served with this order from which no appeal has been taken, who fails to comply with any of the provisions of this order may be subject to a Class 1 misdemeanor pursuant to G.S. § 160D-1124 for each day that any breach or violation, or any failure to comply with, any provision or requirement of any section or subsection of this code or any ordinance of the town, continues or is allowed to continue, pursuant to Title I, Chapter 10, Section 10.99 of the Southern Pines Code of Ordinances.**

Further information as to this matter may be obtained by contacting Kenneth R. Skipper, Fire Marshal, 910-692-2720 or [kskipper@southernpines.net](mailto:kskipper@southernpines.net)

Date: May 6, 2024

Signed: \_\_\_\_\_



Inspector

**TOWN OF SOUTHERN PINES  
VIOLATIONS**

Property Address: 1225 & 1245 Old US 1 Hwy Southern Pines, N.C. 28387  
Owner:

**Violations:**

153.01

1. Constitutes a fire or safety hazard;
2. Is dangerous to life, health, or other property;
3. Is likely to cause or contribute to blight, disease, vagrancy, or danger to children;
4. Has a tendency to attract persons intent on criminal activities or other activities that would cause a public nuisance.

**Note: All appropriate permits must be secured from the Town Planning Department and County Building Inspections Department prior to start of work. Certificate of completion must be secured from Town Building Inspections Department and a copy must be provided to the Town of Southern Pines when all work is complete.**

























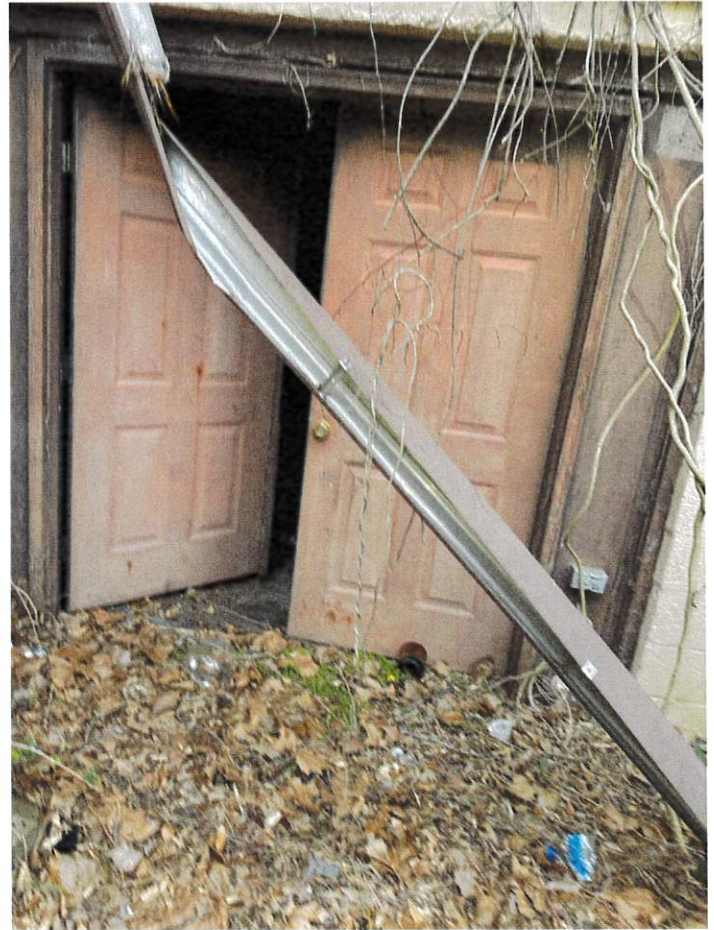




















## ORDINANCE #3078

### DIRECTING THE HOUSING INSPECTOR TO REMOVE OR DEMOLISH THE PROPERTY HEREIN DESCRIBED AS UNFIT FOR HUMAN HABITATION AND DIRECTING THAT A NOTICE BE PLACED THEREON THAT THE SAME NOT BE OCCUPIED UNTIL VIOLATIONS REMEDIED

**WHEREAS**, the Town Council finds that the property described herein:

Property Owner: Marian W. Cornell, Cornell Radio & TV Service.  
Property Address: 1225 and 1245 Old U.S. 1 Hwy, Southern Pines, N.C. 28387  
Property Identification: Parcel ID/PIN 00040151/857112857302,  
Parcel ID/ PIN 00048198/857112856330

is unfit for human habitation under the Town's Minimum Housing Code, and that all of the provisions of the Minimum Housing Code have been complied with as a condition of the adoption of this ordinance; and

**WHEREAS**, said building should be removed or demolished as directed by the Fire Marshal, and should be placarded by placing a notice prohibiting use for human habitation; and

**WHEREAS**, the owner of said building has been given a reasonable opportunity to bring the building up to standards of the Minimum Housing Code in accordance with N.C.G.S. § 160D-1203 pursuant to an order issued by the Building Inspector on May 6, 2024, and the owner having failed to comply with the order;

**NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED** by the Town Council of the Town of Southern Pines, in regular session assembled on the 24<sup>th</sup> of September 2024:

**Section I.** The Fire Marshal is hereby authorized and directed to proceed to **"REMOVE OR DEMOLISH"** the above described building in accordance with his order to the owner thereof dated May 6, 2024 and with the Minimum Housing Code and N.C.G.S. § 160D-1203.

**Section II.** (a) The cost of the repair and closure shall constitute a lien against the real property upon which the cost was incurred. The lien shall be filed in the office of the County Tax Collector, and shall have the same priority and be collected in the same manner as the lien for special assessments in Article 10 of N.C.G.S. Chapter 160A.  
(b) The Fire Marshal shall sell the materials of the dwelling, and any personal property, fixtures, or appurtenances found in or attached to the building, and shall credit the proceeds of the sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the Superior Court by the public 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.

**Section III.** It shall be unlawful for any person to remove or cause to be removed said placard from any building to which it is affixed. It shall likewise be unlawful for any person to occupy or to permit the occupancy of any building herein declared to be unfit for human habitation.

**Section VI.** This ordinance shall become effective upon its adoption.

ATTEST: TOWN OF SOUTHERN PINES

\_\_\_\_\_  
Elizabeth Robertson, Town Clerk

\_\_\_\_\_  
Taylor G. Clement, Mayor

I certify that this Ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting on September 24, 2024, as shown in the Minutes of the Town Council meeting for that date.

\_\_\_\_\_  
Elizabeth Robertson, Town Clerk



# Southern Pines

NORTH CAROLINA

☎ (910) 692-2720

🌐 [www.sopinesnc.info/fire](http://www.sopinesnc.info/fire)

📍 500 W Pennsylvania Avenue  
Southern Pines, NC 28387

## Agenda Item

**To: Reagan Parsons, Town Manager**

**From: Mike Cameron, Fire Chief**

**Subject: Request approval for demolition of unsafe building.**

**Date: September 24, 2024**

---

### I. SUMMARY:

On January 4, 2024, the Fire Marshal received a complaint concerning the abandoned structure located at 312 (Parcel ID 00037934/ PIN 857220913415) Gaines St. A certified letter was sent to the owner requesting an inspection of the property set for January 18, 2024.

After no response was received. On February 22, 2024 an administrative inspection warrant was obtained to inspect the property.

During the inspection on February 23, 2024, it was determined that the building was in violation of N.C. G.S. Chapter 160D, Article 11 and the Unsafe Buildings Ordinance Chapter 153 of the Town of Southern Pines Code of Ordinances.

March 4, 2024 a Notice of Violation was mailed certified mail to the owner. An administrative hearing date was set for March 15, 2024.

April 24, 2024 after no response regarding the hearing, a notice and order to comply was mailed certified mailed outlining the violations along with photographs and the order to comply with removal of the building. A deadline of June 26, 2024 was established. No response to the Town has been received.

### II. ATTACHEMENTS:

1. Copy of the request for inspection dated January 4, 2024.
2. Copy of the Administrative Inspection Warrant dated February 22, 2024.
3. Copy of the Notice of Violation dated March 4, 2024
4. Copy of the Order to Comply dated April 24, 2024.
5. Copy of bids for demolition.

### III. TOWN COUNCIL ACTION

Property Owner: Wiletha M. Pugh (HRS) C/O Bridgette P. Lindsay  
Property Address: Pugh Funeral Home 312 S. Gaines St. Southern Pines, N.C. 28387  
Property Identification:  
Parel ID/PIN 00037934/8577220913415

***MINIMUM HOUSING CODE***  
***“ORDINANCE TO REMOVE OR DEMOLISH”***

**AN ORDINANCE DIRECTING THE HOUSING INSPECTOR TO REMOVE OR DEMOLISH THE PROPERTY HEREIN DESCRIBED AS UNFIT FOR HUMAN HABITATION AND DIRECTING THAT A NOTICE BE PLACED THEREON THAT THE SAME NOT BE OCCUPIED UNTIL VIOLATIONS REMEDIED.**

*Whereas*, the Town Council finds that the property described herein is unfit for human habitation under the Town’s Minimum Housing Code, and that all of the provisions of the Minimum Housing Code have been complied with as a condition of the adoption of this ordinance; and

*Whereas*, said building should be removed or demolished as directed by the Fire Marshal, and should be placarded by placing a notice prohibiting use for human habitation; and

*Whereas*, the owner of said building has been given a reasonable opportunity to bring the building up to standards of the Minimum Housing Code in accordance with N.C.G.S. § 160D-1203 pursuant to an order issued by the Building Inspector on May 6, 2024, and the owner having failed to comply with the order;

*Now, Therefore*, be it ordained by the Town Council that:

***Section I.*** The Fire Marshal is hereby authorized and directed to proceed to **“REMOVE OR DEMOLISH”** the above described building in accordance with his order to the owner thereof dated May 6, 2024 and with the Minimum Housing Code and N.C.G.S. § 160D-1203.

***Section II.*** (a) The cost of the repair and closure shall constitute a lien against the real property upon which the cost was incurred. The lien shall be filed in the office of the County Tax Collector, and shall have the same priority and be collected in the same manner as the lien for special assessments in Article 10 of N.C.G.S. Chapter 160A.  
(b) The Fire Marshal shall sell the materials of the dwelling, and any personal property, fixtures, or appurtenances found in or attached to the building, and shall credit the proceeds of the sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the Superior Court by the public 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.

**Section III.** It shall be unlawful for any person to remove or cause to be removed said placard from any building to which it is affixed. It shall likewise be unlawful for any person to occupy or to permit the occupancy of any building herein declared to be unfit for human habitation.

**Section VI.** This ordinance shall become effective upon its adoption.

**ATTEST**

---

**Beth Robertson, Clerk**

---

**Honorable Taylor Clement, Mayor**

**Adopted this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_**



500 W. Pennsylvania Ave.  
Southern Pines, NC 28387

Phone (910) 692-2720  
Fax (910) 692-2706

**January 4, 2024**

**Case# 2024-0001**

Wiletha M. Pugh (HRS)  
C/O Bridgette P. Lindsay  
130 Davie Ave.  
Winston Salem, N.C. 27127

**Re: Funeral Home**  
312 S. Gains St.  
Southern Pines, NC 28387  
Property ID Number: 00037934/857220913415

The above described building is in a condition that appears to violate the Building Code, Title XV, Chapter 150 of the Town of Southern Pines Code of Ordinances. A report has been received indicating the conditions of this property falls within the scope of the Building Code and exterior observation indicates that violations do exist. An interior inspection has not been conducted as of this date.

A complete interior and exterior inspection is scheduled for **[January 18, 2024 at 2:00 p.m.]**. It will be necessary for you, your agent and/or the tenant to be present at the building to provide access for the inspection. The inspection will be conducted in accordance with the Town of Southern Pines Building Code. If necessary, I am authorized to apply for an administrative inspection warrant in this matter.

Upon completion of the inspection, a hearing will be scheduled within approximately 30 days for the purpose of finding the facts as to whether or not the condition of such property falls within the scope of the Building Code. At the hearing, you shall be entitled to offer such evidence as is relevant or material to the questions sought to be determined or the remedies to be effected. Further information as to this matter may be obtained by contacting me at:

Kenneth R. Skipper  
Assistant Chief/Fire Marshal  
500 W. Pennsylvania Ave.  
Southern Pines, NC 28387  
910-692-2720  
[kskipper@southernpines.net](mailto:kskipper@southernpines.net)

(TYPE OR PRINT IN BLACK INK)

**STATE OF NORTH CAROLINA**

In The General Court Of Justice

Moore

County

**AFFIDAVIT TO OBTAIN  
ADMINISTRATIVE INSPECTION  
WARRANT FOR PARTICULAR  
CONDITION OR ACTIVITY**

I, Kenneth R. Skipper, Fire Marshal Town of Southern Pines, being  
(name and position)

duly sworn and examined under oath, state under oath that there is probable cause for believing that there is  
pursuant to North Carolina General Statutes 160D-1129 and 58-79-20, unsafe conditions and violations of the

(describe condition, object, activity, or circumstance which the search is intended to check or reveal)  
North Carolina Fire Code, and Town of Southern Pines Code of Ordinances Section 153 exist;

BY JPB

at the property owned or possessed by Wiletha M. Pugh (HRS) C/O Bridgette P. Lindsey

and described as follows: Pugh Funeral Home located at 312 S. Gains Street Southern Pines, N.C. 28387

Two story wood framed building with brick exterior, white trim and brown metal roof.

(precisely describe the property to be inspected)

The facts which establish probable cause to believe this are: See attached.

Signature Of Applicant

Name Of Applicant (Type Or Print)

Kenneth R. Skipper

**SWORN AND SUBSCRIBED TO BEFORE ME:**

Date

Signature

☐ Deputy CSC

☐ Magistrate

☐ Assistant CSC

☒ District Court Judge

☐ Clerk Of Superior Court

☐ Superior Court Judge

**IMPORTANT: Attach the Affidavit to the WARRANT if not on reverse side.**

(TYPE OR PRINT IN BLACK INK)

**STATE OF NORTH CAROLINA**

In The General Court Of Justice

Moore

County

**ADMINISTRATIVE INSPECTION  
WARRANT FOR PARTICULAR  
CONDITION OR ACTIVITY**

G.S. 15-27.2; 58-79-1

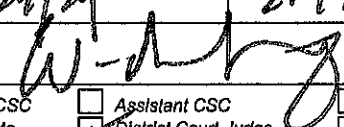
**TO ANY LAWFUL OFFICIAL EMPOWERED TO CONDUCT THE INSPECTION AUTHORIZED BY THIS WARRANT:**

The applicant named on the accompanying affidavit, which is hereby incorporated by reference, being duly sworn, has stated to me that there is a condition, object, activity, or circumstance legally justifying an inspection of the property described in that affidavit. I have examined this applicant under oath or affirmation and have verified the accuracy of the matters in the affidavit establishing the legal grounds for this Warrant. **YOU ARE HEREBY COMMANDED TO INSPECT THE PROPERTY DESCRIBED IN THE ACCOMPANYING AFFIDAVIT.**

This inspection is authorized to check or reveal the conditions, objects, activities, or circumstances indicated in the accompanying affidavit.

This Warrant must be served upon the owner or possessor of the property described in the accompanying affidavit. If the owner or possessor is not present on the property at the time of inspection and you have made reasonable but unsuccessful efforts to locate the owner or possessor, you may instead serve it by affixing this Warrant or a copy to the property.

THIS WARRANT MAY BE EXECUTED ONLY BETWEEN THE HOURS OF 8:00 A.M. AND 8:00 P.M. AND ONLY WITHIN 24 HOURS AFTER IT WAS ISSUED. IT MUST BE RETURNED WITHIN 48 HOURS AFTER IT WAS ISSUED. HOWEVER, IF THIS WARRANT IS ISSUED PURSUANT TO A FIRE INVESTIGATION AUTHORIZED BY G.S. 58-79-1, IT MAY BE EXECUTED AT ANY TIME WITHIN 48 HOURS AFTER IT IS ISSUED. IT MUST BE RETURNED WITHOUT UNNECESSARY DELAY AFTER ITS EXECUTION OR AFTER 48 HOURS FROM THE TIME IT WAS ISSUED IF IT WAS NOT EXECUTED.

|                                     |                                                                                      |                                                  |      |                             |                                        |
|-------------------------------------|--------------------------------------------------------------------------------------|--------------------------------------------------|------|-----------------------------|----------------------------------------|
| Date                                | 2/24/24                                                                              | Time                                             | 2:45 | <input type="checkbox"/> AM | <input checked="" type="checkbox"/> PM |
| Signature                           |  |                                                  |      |                             |                                        |
| <input type="checkbox"/> Deputy CSC | <input type="checkbox"/> Assistant CSC                                               | <input type="checkbox"/> Clerk Of Superior Court |      |                             |                                        |
| <input type="checkbox"/> Magistrate | <input checked="" type="checkbox"/> District Court Judge                             | <input type="checkbox"/> Superior Court Judge    |      |                             |                                        |

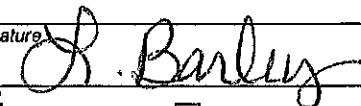
**OFFICER'S RETURN**

I certify that this WARRANT was executed on the date and time shown below.

|                   |                                                                         |                                             |                                                                                      |
|-------------------|-------------------------------------------------------------------------|---------------------------------------------|--------------------------------------------------------------------------------------|
| Date Of Execution | 2-23-2024                                                               | Signature Of Inspecting Official            |  |
| Time Of Execution | 9:32 <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM | Name Of Inspecting Official (Type Or Print) | Kenneth Skipper                                                                      |

**CLERK'S ACCEPTANCE**

This WARRANT has been returned to this office on the date and time shown below.

|                |                                                                         |                                                |                                                                                         |
|----------------|-------------------------------------------------------------------------|------------------------------------------------|-----------------------------------------------------------------------------------------|
| Date Of Return | 2-23-24                                                                 | Signature                                      |     |
| Time Of Return | 2:37 <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM | <input checked="" type="checkbox"/> Deputy CSC | <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court |

**IMPORTANT:** Attach the Affidavit to the WARRANT if not on reverse side.

# Continuation of Administrative Inspection Search Warrant

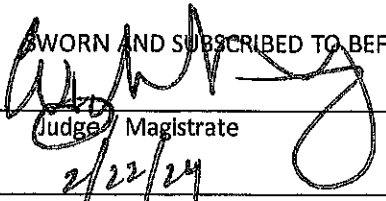
STATE OF NORTH CAROLINA

IN THE MATTER OF: Pugh Funeral Home 312 S. Gains St. Southern Pines, N.C. 28387

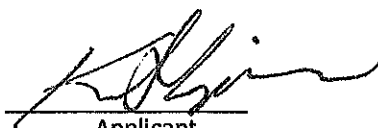
SEARCH WARRANT AFFIDAVIT PREPARED BY: K. R. Skipper

1. The Affiant swears to the following to establish Probable Cause for the issuance of an Administrative Search Warrant. I, Fire Marshal K. R. Skipper of the Southern Pines Fire Department, Inspections Division hereinafter referred to as the Affiant, do hereby list the following facts to establish Probable Cause for the issuance of a Search Warrant. The Affiant is the Fire Marshal for the Southern Pines Fire Department in Southern Pines, North Carolina. The Affiant successfully completed the Fire Inspector Training Course in January 2006 at Wayne Community College in Goldsboro, North Carolina and has appropriately achieved his Certification as required by the North Carolina Code Officials Qualification Board. The Affiant has been a sworn code enforcement officer since December of 2005. The Affiant previously worked for Moore County Public Safety after being sworn to his official duty where upon he was assigned as the Assistant Fire Marshal. The Affiant was appointed the Fire Marshal for Moore County in February 2009. The Affiant worked for the Southern Pines Fire Department and was assigned to the inspections Division as Deputy Fire Marshal in October 2015. The Affiant was appointed as the Fire Marshal for the Southern Pines Fire Department in March 2017. The Affiant has received specialized training in the area of code enforcement and fire investigations through, but not limited to, the North Carolina Office of the State Fire Marshal and the National Fire Academy. The Affiant has obtained his Level III Fire Inspector Certificate from the North Carolina Code Officials Qualifications Board in July 2009. Since being sworn the Affiant has assisted with and conducted numerous fire inspections and investigations. The Affiant has operated in conjunction with various Local, State and Federal agencies.

SWORN AND SUBSCRIBED TO BEFORE ME:

  
Judge/Magistrate

2/22/24  
Date

  
Applicant

2-22-24  
Date

# Continuation of Administrative Inspection Search Warrant

STATE OF NORTH CAROLINA

IN THE MATTER OF: Pugh Funeral Home 312 S. Gains St. Southern Pines, N.C. 28387

SEARCH WARRANT AFFIDAVIT PREPARED BY: K. R. Skipper

1. On January 18, 2024, I conducted a site visit and based on my observations from the public right-of-way, there is reasonable cause to believe that the aforementioned property is in violation of North Carolina General Statute § 160D-1129, North Carolina Fire Code § 58-79-20 and Town of Southern Pines Code of Ordinances Section 153, and poses a significant risk to public safety due to unsafe conditions.
2. The specific conditions and violations observed include but are not limited to:
  - The building appears to be abandoned and unsecured.
  - Structural deficiencies and decay, including cracks in the foundation and walls.
  - Accumulation of vegetation capable of being ignited and endangering the building.
  - Partial collapse of an attached parking structure.
  - Lack of properly maintained fire exits.
  - Accumulation of combustible materials or hazardous substances.
3. On January 6, 2024, a certified letter requesting access for inspection was delivered by the U.S. Postal Service to the owner's address listed in the Moore County tax records with no reply.
4. On February 6, 2024 I contacted the last known agent for the property Ms. Nezzie M. Smith at Pugh and Smith Funeral Home in Carthage, N.C. Ms. Smith advised that she no longer had access to the property.
5. The last fire inspection conducted by the Southern Pines Fire Department was conducted in June 2020.
6. The unsafe conditions present on the property pose an imminent threat to the safety of occupants and neighboring properties, as well as to emergency responders in the event of a fire or other emergency situation.

Summary:

Based on my training and experience; I believe the facts above establish probable cause to believe that hazardous conditions exist and that the examination of the building located at 312 S. Gains St. Southern Pines, N.C. 28387 is needed to ensure the safety of the adjacent property and public.

- Areas of the Building to be Inspected: All interior and exterior portions of the building including but not limited to any basements, attics and crawl spaces.
- Assistance Required: Town of Southern Pines Building Inspector.

SWORN AND SUBSCRIBED TO BEFORE ME:

Judge / Magistrate

Date

Applicant

Date



500 W. Pennsylvania Ave.  
Southern Pines, NC 28387

Phone (910) 692-2720  
Fax (910) 692-2706

---

## NOTICE OF VIOLATION

**Case No.:** 2024-0001

**Date:** February 27, 2024

Wiletha M. Pugh (HRS)  
C/O Bridgette P. Lindsay  
130 Davie Ave.  
Winston Salem, N.C. 27127

**Re:** Funeral Home  
312 S. Gaines St.  
Southern Pines, NC 28387  
Property ID Number: 00037934/857220913415

Dear Ms. Lindsay,

Our records indicate that you own or possess an interest in the building located at **312 S. Gaines St. Southern Pines, N.C. 28387**. A preliminary investigation on **February 23, 2024** has disclosed, that the above-mentioned building is in violation of the codes of the Town of Southern Pines attached to this letter.

The Town of Southern Pines is hereby setting a hearing on the violations. You are notified that on **March 15, 2024** in the office of the Fire Marshal at **500 W. Pennsylvania Ave.** an administrative hearing will be held with the undersigned Code Enforcement Officer or designee on the violations listed on attached page. You have the right to file an Answer and to appear in person or otherwise and offer testimony. The rules of evidence used in courts of law or equity are not controlling at hearings before the Code Enforcement Officer.

**Once violations are corrected, the owner or property manager is responsible for arranging for a re-inspection of the property by a Code Enforcement Officer.**

Sincerely,

Kenneth R. Skipper  
Assistant Fire Chief/Fire Marshal  
500 W. Pennsylvania Ave.  
Southern Pines, NC 28387  
**910-692-2720**  
[kskipper@southernpines.net](mailto:kskipper@southernpines.net)

Wall To Wall  
160 Rosy Rd  
Aberdeen, NC 28315-5820 USA  
walltowallpowercleaning1@gmail.com

Estimate

ADDRESS  
Ken Skipper  
Town Of Southern Pines

ESTIMATE # 1038  
DATE 08/13/2024

| ACTIVITY                                                                                                                                            | QTY | RATE       | AMOUNT       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|-----|------------|--------------|
| <b>Sales</b><br>Building Demolition 312 S Gains St<br><br>Demo all building and contents. Haul off all materials. Grade area and install Silt fence | 1   | 112,000.00 | 112,000.00   |
| TOTAL                                                                                                                                               |     |            | \$112,000.00 |

Accepted By

Accepted Date

ESTIMATE

REYNOLDS LANDSCAPE  
P.O. Box 3885  
Pinehurst, NC 28374

reynoldslandscape@yahoo.com  
+1 (910) 638-7379

Bill to

Ken Skipper  
Town of Southern Pines

Estimate details

Estimate no.: 1157  
Estimate date: 08/11/2024

| #              | Date | Product or service                        | Description                                                                                                                                                                                                                                                                  | Amount      |
|----------------|------|-------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 1.             |      | <b>Building Demolition 312 S Gains St</b> | Furnish all equipment and labor to perform and complete all work required for the demolition and site work. Remove the structure and resulting debris from the lot. Finish grade lot and over seed to control erosion. Install silt fence on perimeter of construction area. | \$96,800.00 |
| Total \$96,800 |      |                                           |                                                                                                                                                                                                                                                                              |             |

Total \$96,800.00

Note to customer

Thank you for your business.

Accepted date Accepted by

# McFADDEN

## HOMES INCORPORATED

August 1, 2024

Town of Southern Pines

RE: 312 S. Gaines St

Estimate for the following:

Remove existing building

Install sediment control

Seed and straw

Includes asbestos report, if asbestos is found there will be an additional charge

Total estimate .....\$145,00.00

All accounts are due payable per the invoiced terms. All past due amounts are subject to a service charge at the maximum rate allowed by state law plus cost of collection including attorney fees if incurred. Interest to begin to accumulate seven days after date to invoice.



500 W. Pennsylvania Ave.  
Southern Pines, NC 28387

Phone (910) 692-2720  
Fax (910) 692-2706

## Town of Southern Pines

### **FINDINGS OF FACT AND ORDER**

April 26, 2024

Wiletha M. Pugh (HRS)  
C/O Bridgette P. Lindsay  
130 Davie Ave.  
Winston Salem, N.C. 27127

**Re:** Funeral Home  
312 S. Gaines St.  
Southern Pines, NC 28387  
Property ID Number: 00037934/857220913415

Dear Ms. Lindsay,

The undersigned, pursuant to law, conducted a hearing at the time and place stated in the Complaint and Notice, previously issued and served, regarding code violations occurring at the structure located at 312 S. Gaines St. in the Town of Southern Pines, North Carolina. The evidence, including any Answer filed by the owners and parties in interest, contentions, and views of the owners and parties in interest, were carefully analyzed and considered by the undersigned. In addition to other evidence presented, the undersigned personally inspected the structure described above, and such inspection and examination has been considered, along with other evidence offered at this hearing.

Upon the record and all of the evidence offered and contentions made, the undersigned does hereby find the following facts:

|                                |                                                                   |
|--------------------------------|-------------------------------------------------------------------|
| <b>Property/<br/>Building:</b> | Pugh Funeral Home 312 S. Gaines St. Southern Pines, N.C.<br>28387 |
| <b>Owner:</b>                  | Wiletha M. Pugh (HRS), C/O Bridgette P. Lindsay                   |

1. The above named owner and parties in interest with respect to the building located at the property specified above were duly served as required by law with written Complaint and Notice of Hearing which set forth in the Complaint that the structure located at the above address appears to be dangerous to life as defined under Title XV, Chapter 153, Section 153.01 of the Code of Ordinances of the Town of Southern Pines, and the particulars thereof, and fixed a time and place for a hearing upon the complaint as provided by law.
2. The following owner(s)/agent(s) listed here did not appear for the scheduled date:  
**Wiletha M. Pugh (HRS), C/O Bridgette P. Lindsay**
3. The building described above violated Title XV, Chapter 153 of the Code of Ordinances of the Town of Southern Pines, by reason of the following conditions found to be present and to exist in and about the structure:
4. **RELEVANT FINDINGS OF FACTS BASED ON WHAT IS PRESENTED AT THE HEARING INCLUDE THOSE RELATED TO THE FOLLOWING DEFECTIVE CONDITIONS:**
  - The building was found to be vacant, abandoned and unguarded. Doors and openings to the building were found open and unsecured.
  - The building is in a dilapidated condition and structurally compromised in a way that threatens the safety of occupants, surrounding property and emergency responders. The building has cracks and decay in load-bearing-walls, unstable floors and unsafe exposed electrical wiring. The roof is compromised and leaking in several places and a partial collapse has occurred. Missing flooring and open holes in the floor were observed on the second-floor through to the first floor.
  - A section of the North side of the building was inaccessible because of trees growing into the exterior stairway which was rotted and unstable. This portion of the building was partially observed through openings from other areas inside of the building and the exterior.
  - It is likely to cause or contribute to blight, disease, vagrancy, create fire safety hazard, danger to children and attract persons intent on criminal activity and constitutes a public nuisance.

5. (G.S. § 160D-1122): The building is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health, or other property as described under Title XV, Chapter 153 Section 153.01 of the Code of Ordinances of the Town of Southern Pines]
6. Due to these conditions, the building described above is found to be in violation of Title XV, Chapter 153 Section 153.01 of the Code of Ordinances of the Town of Southern Pines, North Carolina, and is in a condition that constitutes a safety hazard or renders it dangerous to life, health, or other property.

**IT IS THEREFORE ORDERED** that the owners of the structure named above are required to bring such structure into compliance with Title XV of the Code of Ordinances of the Town of Southern Pines, North Carolina, by repairing, closing, vacating, or demolishing the building or taking any other necessary steps by a date not later than the **June 26, 2024**

**Any owner of a building, duly served with this order from which no appeal has been taken, who fails to comply with any of the provisions of this order may be subject to a Class 1 misdemeanor pursuant to G.S. § 160D-1124 for each day that any breach or violation, or any failure to comply with, any provision or requirement of any section or subsection of this code or any ordinance of the town, continues or is allowed to continue, pursuant to Title I, Chapter 10, Section 10.99 of the Southern Pines Code of Ordinances.**

Further information as to this matter may be obtained by contacting Kenneth R. Skipper, Fire Marshal, 910-692-2720 or [kskipper@southernpines.net](mailto:kskipper@southernpines.net)

Date: April 24, 2024

Signed: \_\_\_\_\_



Inspector

**TOWN OF SOUTHERN PINES  
VIOLATIONS**

Property Address:

Owner:

**Violations:**

153.01

1. Constitutes a fire or safety hazard;
2. Is dangerous to life, health, or other property;
3. Is likely to cause or contribute to blight, disease, vagrancy, or danger to children;
4. Has a tendency to attract persons intent on criminal activities or other activities that would cause a public nuisance.

**Note: All appropriate permits must be secured from the Town Planning Department and County Building Inspections Department prior to start of work. Certificate of completion must be secured from Town Building Inspections Department and a copy must be provided to the Town of Southern Pines when all work is completed.**

**312 S. Gains St.  
Southern Pines, N.C. 28387  
February 23, 2024**

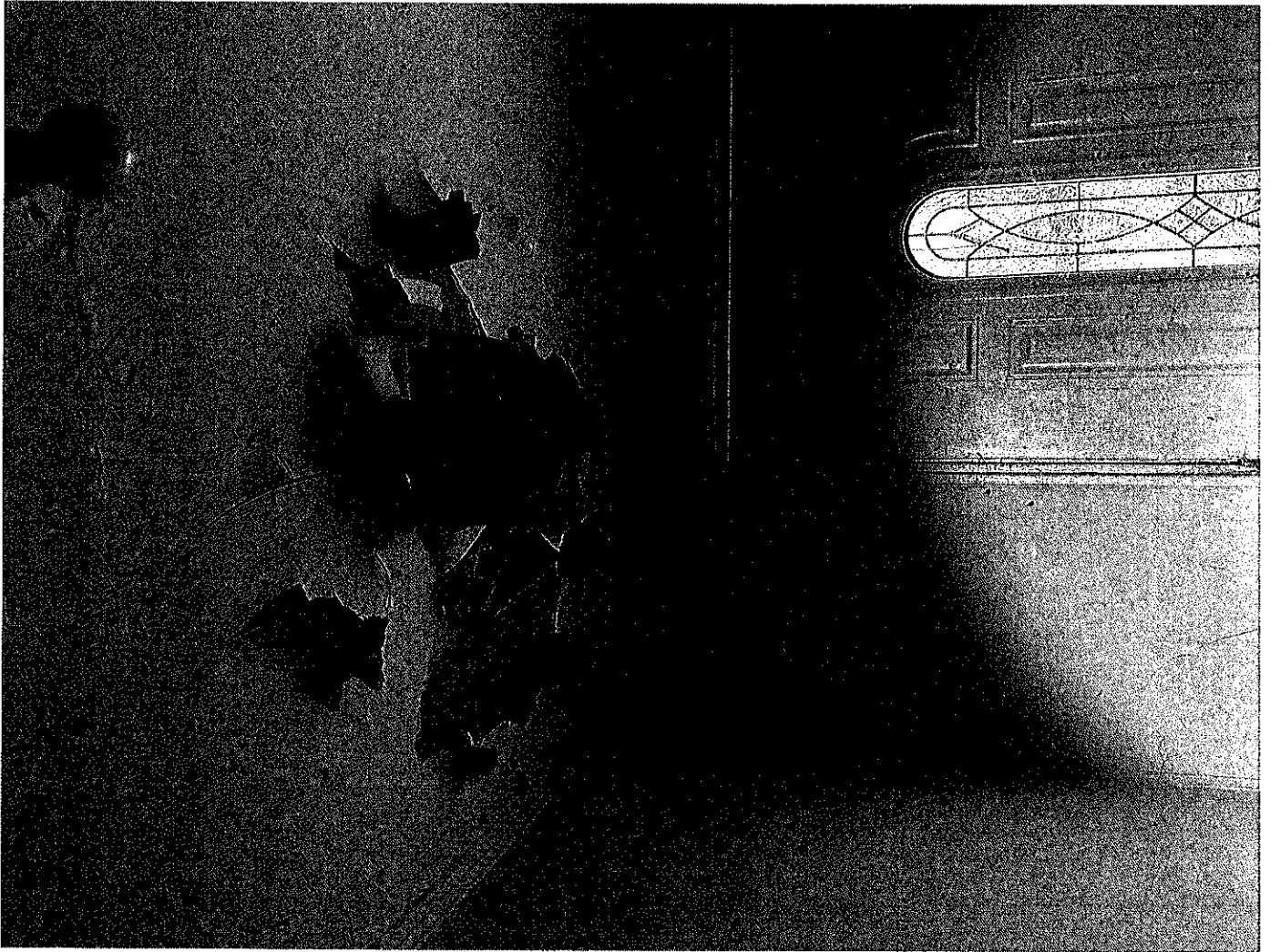


































## ORDINANCE #3079

### DIRECTING THE HOUSING INSPECTOR TO REMOVE OR DEMOLISH THE PROPERTY HEREIN DESCRIBED AS UNFIT FOR HUMAN HABITATION AND DIRECTING THAT A NOTICE BE PLACED THEREON THAT THE SAME NOT BE OCCUPIED UNTIL VIOLATIONS REMEDIED

**WHEREAS**, the Town Council finds that the property described herein:

Property Owner: Wiletha M. Pugh (HRS) C/O Bridgette P. Lindsay  
Property Address: Pugh Funeral Home, 312 S. Gaines St., Southern Pines, N.C. 28387  
Property Identification: Parcel ID/PIN 00037934/8577220913415

is unfit for human habitation under the Town's Minimum Housing Code, and that all of the provisions of the Minimum Housing Code have been complied with as a condition of the adoption of this ordinance; and

**WHEREAS**, said building should be removed or demolished as directed by the Fire Marshal, and should be placarded by placing a notice prohibiting use for human habitation; and

**WHEREAS**, the owner of said building has been given a reasonable opportunity to bring the building up to standards of the Minimum Housing Code in accordance with N.C.G.S. § 160D-1203 pursuant to an order issued by the Building Inspector on May 6, 2024, and the owner having failed to comply with the order;

**NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED** by the Town Council of the Town of Southern Pines, in regular session assembled on the 24<sup>th</sup> of September 2024:

**Section I.** The Fire Marshal is hereby authorized and directed to proceed to **"REMOVE OR DEMOLISH"** the above described building in accordance with his order to the owner thereof dated May 6, 2024 and with the Minimum Housing Code and N.C.G.S. § 160D-1203.

**Section II.** (a) The cost of the repair and closure shall constitute a lien against the real property upon which the cost was incurred. The lien shall be filed in the office of the County Tax Collector, and shall have the same priority and be collected in the same manner as the lien for special assessments in Article 10 of N.C.G.S. Chapter 160A.  
(b) The Fire Marshal shall sell the materials of the dwelling, and any personal property, fixtures, or appurtenances found in or attached to the building, and shall credit the proceeds of the sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the Superior Court by the public 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.

**Section III.** It shall be unlawful for any person to remove or cause to be removed said placard from any building to which it is affixed. It shall likewise be unlawful for any person to occupy or to permit the occupancy of any building herein declared to be unfit for human habitation.

**Section VI.** This ordinance shall become effective upon its adoption.

ATTEST: TOWN OF SOUTHERN PINES

\_\_\_\_\_  
Elizabeth Robertson, Town Clerk

\_\_\_\_\_  
Taylor G. Clement, Mayor

I certify that this Ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting on September 24, 2024, as shown in the Minutes of the Town Council meeting for that date.

\_\_\_\_\_  
Elizabeth Robertson, Town Clerk

DRAFT



**ORDINANCE #3080**  
**AMENDING THE WATER & SEWER UPGRADES CAPITAL PROJECT FUND**

**BE IT ORDAINED**, by the Town of Southern Pines Town Council, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project budget is hereby amended:

- Section 1:       The project authorized is to establish a fund for the purpose of upgrading and repairing the Town’s water distribution system and sewer collection system.
- Section 2:       The officers of this unit are hereby directed to proceed with the capital project fund within the terms of the budget contained herein.
- Section 3:       The following additional amount is appropriated for the project:
- |                                        |                   |
|----------------------------------------|-------------------|
| Construction – Sewer                   | \$ 503,013        |
| Construction – Water                   | <u>219,072</u>    |
| Total Additional Project Appropriation | <u>\$ 722,085</u> |
- Section 4:       The following additional revenue is anticipated to be available for this project:
- |                                                             |                   |
|-------------------------------------------------------------|-------------------|
| Transfer In – Capital Project Fund – Lift Station Upgrades  | \$ 503,013        |
| Transfer In – Capital Project Fund – Facility Modernization | <u>219,072</u>    |
| Total Additional Project Revenues                           | <u>\$ 722,085</u> |
- Section 5:       Copies of this capital project ordinance shall be furnished to the Clerk to the Governing Board, and to the Finance Officer for direction in carrying out this project.
- Section 6:       This amended ordinance becomes effective September 24, 2024.

I certify that this ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting of September 24, 2024 as shown in the minutes of the Town Council for that date.

\_\_\_\_\_  
Elizabeth Robertson, Town Clerk



**ORDINANCE #3066**  
**ADOPT RULES OF PROCEDURE FOR THE**  
**SOUTHERN PINES TOWN COUNCIL**

**WHEREAS**, NCGS 160A-71 provides that municipal governing bodies may adopt rules of procedure to govern the conduct of their meeting as long as the rules are in accord with generally accepted parliamentary procedure, and

**WHEREAS**, the UNC School of Government has published Suggested Rules of Procedure for a City Council, 4<sup>th</sup> edition, 2017, and

**WHEREAS**, the rules adopted by this ordinance are based on the Suggested Rules of Procedure, and the Council has discussed them and modified them to be appropriate for the Southern Pines Town Council.

**NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED** by the Town Council of the Town of Southern Pines, in regular session assembled on the 27<sup>TH</sup> day of September, 2024:

**Section 1.** The attached “Rules of Procedure for the Southern Pines Town Council” (also identified in electronic version as “ToSP Rules of Procedure – Final – v8.docx”) are hereby adopted.

**Section 2.** §30.02 of the Southern Pines Town Code is rewritten to read:

§30.02 Rules of Procedure. Pursuant to G.S. 160A-71 the council may adopt rules of procedure to govern the conduct of council meetings.

**Section 3.** §30.03 of the Southern Pines Town Code is repealed.

**Section 4.** This ordinance shall be effective upon adoption.

**Section 5.** The “Rules of Procedure for the Southern Pines Town Council” shall not be codified in the Town Code. The Rules of Procedure shall be available for public inspection and copying in the office of the Town Clerk and shall be posted on the Town’s website.

This the 24<sup>th</sup> day of September, 2024.

I certify that this Ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting on September 27, 2024, as shown in the Minutes of the Town Council meeting for that date.

---

Elizabeth Robertson, Town Clerk



## Rules of Procedure for the Southern Pines Town Council

Adopted \_\_\_\_\_, \_\_\_\_\_, 2024

### Part I. Applicability

#### Rule 1. Applicability of Rules

These rules apply to all meetings of the Southern Pines Town Council. For purposes of these rules, a meeting of the council occurs whenever a majority of the council's members gather, whether in person or simultaneously by electronic means, to conduct hearings, deliberate, vote, or otherwise transact public business within the council's jurisdiction. The term "majority" as used here and elsewhere in these rules means, unless otherwise specified, a simple majority, that is, more than half.

### Part II. Quorum

#### Rule 2. Quorum

The presence of a quorum is necessary for the council to conduct business. A majority of the council's actual membership, including the mayor, excluding vacant seats, constitutes a quorum. For Southern Pines, when all five seats are filled, a quorum is 3 members. A member who withdraws from a meeting without being excused by majority vote of the remaining members in attendance is deemed present for quorum purposes.

### Part III. Open Meetings

#### Rule 3. Remote Participation in Council Meetings

~~Members must be physically present for a council meeting and may not participate in the meeting by remote electronic means, except in accordance with state law.~~

Members of council may participate remotely during declared emergencies as allowed by state law. In all other instances If a member attends via electronic means the member may take part in discussion and debate but the member will not be counted toward a quorum or allowed to vote on any matter before the council unless authorized by state law.

~~If a member attends remotely via electronic means, as allowed by state law, the member may take part in debate. However, that member's participation may neither be counted toward a quorum nor vote on any matter before the council unless authorized by state law provisions.~~

#### **Rule 4. Meetings to Be Open to the Public**

Except as permitted by Rule 5, all meetings of the council shall be open to the public, and any person may attend its meetings.

#### **Rule 5. Closed Sessions**

**(a) Motion to Enter Closed Session.** The town council may enter a closed session from which the public is excluded only upon a motion duly made and adopted in open session. The motion to enter closed session must cite one or more of the permissible bases listed in paragraph (b) of this rule. A motion to enter closed session under subparagraph (b)(1) or (b)(2) must contain the additional information specified in those provisions.

**(b) Bases for Closed Session.** A closed session is permissible under the following circumstances and no others:

- (1) Privileged or Confidential Information: To prevent the disclosure of information that is privileged or confidential pursuant to the law of North Carolina or of the United States or that does not constitute a public record within the meaning of Chapter 132 of the General Statutes. The motion to enter closed session must name or cite the law that renders the information confidential or privileged.
- (2) Attorney-Client Confidentiality: To consult with the town attorney or another attorney employed or retained by the town in order to preserve the attorney–client privilege. If the council expects to discuss a pending lawsuit with its attorney, the motion to enter closed session must include the names of the parties to the lawsuit.
- (3) Economic Development and/or Military Installation: To discuss matters relating to (a) the location or expansion of industries or other businesses in the area served by the town or (b) the closure or realignment of a military installation. The council may reach agreement in closed session on a tentative list of economic development incentives to be offered in negotiations, but the approval of the signing of any economic development contract or commitment and the authorization of the payment of economic development expenditures must take place in open session.
- (4) Real Property Acquisition: To establish or instruct staff or agents concerning the town’s position in negotiating the price or other material terms of an agreement for the acquisition of real property by purchase, exchange, or lease.
- (5) Employment Contract: To establish or instruct staff or agents concerning the amount of compensation or other material terms of an employment contract.
- (6) Personnel: To consider the qualifications, competence, performance, character, fitness, or conditions of appointment or employment of a public officer or employee or

prospective public officer or employee. Final action to appoint or employ a public officer or employee must take place in open session.

*Exclusion:* An open session is required when the individual in question is a member of the town council or other public body or is being considered to fill a vacancy on the town council or other public body.

(7) Charge or Complaint: To hear or investigate a charge or complaint by or against a public officer or employee. Final action discharging an employee or removing an officer must occur in open session.

(8) Alleged Criminal Misconduct: To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct.

(9) Law Enforcement Recording: To view a law enforcement recording released pursuant to G.S. 132-1.4A.

(10) On any other basis permitted by law.

**(c) Closed Session Participants.** Unless the council directs otherwise, the town manager and town attorney may attend closed sessions of the council. No other person may attend a closed session unless invited by the council.

**(d) Motion to Return to Open Session.** Upon completing its closed session business, the council shall end the closed session by adopting a duly made motion to return to open session.

## **Rule 6. Meeting Minutes**

**(a) Minutes Required for All Meetings.** The council must keep full and accurate minutes of all of its meetings, including closed sessions. To be “full and accurate,” minutes must record all actions taken by the council. They should set out the precise wording of each motion and make it possible to determine the number of votes cast for and against each motion. The minutes need not record discussions of the council, though the council in its discretion may decide to incorporate such details into the minutes.

**(b) Record of “Ayes” and “Noes.”** At the request of any member of the council, the minutes shall list each member by name and record how each member voted on a particular matter.

**(c) General Accounts of Closed Sessions.** In addition to minutes, the council must keep a general account of each closed session. The general account must be sufficiently detailed to provide a person not in attendance with a reasonable understanding of what transpired. The council may combine the minutes and general account of a closed session into one document, so long as the document contains both a complete record of actions taken and the level of detail required for a general account.

**(d) Sealing Closed Session Records.** Minutes and general accounts of closed sessions shall be sealed until unsealed by order of the council or, if the council delegates the authority to unseal to one or more staff members, in accordance with guidelines adopted by the council. The sealed minutes and general account of any closed session may be withheld from public inspection so long as public inspection would frustrate the purpose(s) of the closed session.

## **Rule 7. Broadcasting and Recording Meetings**

**(a) Right to Broadcast and Record.** Any person may photograph, film, tape-record, or otherwise reproduce any part of a council meeting that must take place in open session. Except as provided in paragraph (c) of this rule, any media entity may broadcast any such part of a council meeting.

**(b) Advance Notice.** Any media entity that plans to broadcast any portion of a council meeting shall so notify the town manager before the meeting. The failure to provide notice is not, by itself, grounds for preventing the broadcast of a council meeting.

**(c) Equipment Placement.** The town manager or the manager's designee may regulate the placement and use of camera or recording equipment in order to prevent undue interference with a council meeting, so long as the equipment is allowed to be placed where it can carry out its intended function. If the town manager determines in good faith that the equipment and personnel necessary to broadcast, photograph, or record the meeting cannot be accommodated without undue interference to the meeting, and an adequate alternative meeting room is not readily available, the town manager may require the pooling of the equipment and the personnel operating it.

**(d) Alternative Meeting Site.** If the news media request an alternative meeting site to accommodate news coverage, and the council grants the request, the news media making the request shall pay the costs incurred by the town in securing an alternative meeting site.

## **Part IV. Organization of the Council**

### **Rule 8. Organizational Meeting; Selection of Mayor Pro Tempore**

**(a) Scheduling Organizational Meeting.** The council must hold an organizational meeting following each general election in which council members are elected. The organizational meeting must be held either (1) on the date and at the time of the council's first regular meeting in December following the election or (2) at an earlier date, if any, set by the incumbent council. The organizational meeting may not be held before municipal election results are officially determined, certified, and published as required by law.

**(b) Oath of Office.** As the first order of business at the organizational meeting, all newly elected members of the council must take and subscribe the oath of office set out in Article VI, Section 7, of the North Carolina Constitution. Each member's oath must be filed with the town clerk.

Although a member who is not present for the organizational meeting may take the oath of office at another time, every member must take, subscribe, and file the oath before he or she begins performing any of the duties of the member's office.

**(c) Selection of Mayor Pro Tempore.** At the organizational meeting, the council shall elect from among its members a mayor pro tempore using the procedures specified in Rule 38. The mayor pro tempore shall serve at the council's pleasure.

## Part V. Types of Meetings

### Rule 9. Regular Meetings

**(a) Regular Meeting Schedule.** The council shall hold a regular meeting on the second and fourth Tuesday of each month. The meetings shall be held at the times and locations as set out on the meeting schedule adopted by the council. A copy of the council's current meeting schedule shall be filed with the town clerk and may be posted on the town's website.

**(b) Change to Meeting Schedule.** Notwithstanding paragraph (a) of this rule, the council may amend its regular meeting schedule to add or delete meetings or to change the date, time, or location of one or more meetings on the schedule. The amended schedule shall be filed with the town clerk at least seven (7) calendar days before the day of the first meeting held pursuant to the revised schedule.

### Rule 10. Special Meetings

**(a) Calling Special Meetings.** A special meeting may be called in either of two ways:

- (1) called by vote of the council in open session during a regular meeting or another duly called special meeting; or
- (2) called by the mayor, the mayor pro tempore, or any two council members.
  - a. A written notice of the meeting—setting out the time and place and the subjects to be considered—must be prepared and signed by the person(s) calling the meeting.
  - b. Said notice must be posted and distributed in accordance with sub paragraphs (b) and (c).

**(b) Notice to the Public.** At least 48 hours before a special meeting of the council, the Town Clerk or the Clerk's designee shall provide notice of the date, time, place, and purpose of the meeting:  
(1) posted on the council's principal bulletin board or, if the council has no such board, at the door of the council's usual meeting room.

(2) delivered, e-mailed, or mailed to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the town clerk, and

(3) posted on the town website in advance of the meeting.

**(c) Notice to Members.**

- (1) ***Meeting called by the mayor, the mayor pro tempore, or any two council members.*** At least 48 hours before a special meeting called by the mayor, the mayor pro tempore, or any two council members, written notice of the meeting stating its date, time, and place, as well as the subjects to be considered, shall be delivered to the mayor and each council member or left at his or her usual dwelling place.
- (2) ***Meeting called by vote of the council in open session.*** When a special meeting is called by vote of the council in open session during a regular meeting or another duly called special meeting, the motion or resolution calling the special meeting shall state the meeting's date, time and place.

**(d) Transacting Other Business.** The council may only take up those business items specified in the notice of the special meeting, unless all members are present or any absent member has signed a written waiver of notice.

Even when all members are present or any absent member has signed a waiver, the council may take up an item of business not covered by the notice only if the council first determines in good faith that the item must be discussed or acted upon immediately.

### **Rule 11. Emergency Meetings**

**(a) Grounds for Emergency Meeting.** Emergency meetings of the council may be called only to address generally unexpected circumstances demanding the council's immediate attention.

**(b) Calling Emergency Meetings.** There are two methods by which an emergency meeting of the council may be called.

- (1) The mayor, the mayor pro tempore, or any two members of the council may at any time call an emergency council meeting by signing a written notice stating the date, time, and place of the meeting and the subjects to be considered. The notice shall be delivered to the mayor and each council member or left at his or her usual dwelling place at least six hours before the meeting.
- (2) An emergency meeting may be held when the mayor and all members of the council are present and consent thereto, or when any absent member has signed a written waiver of notice.

**(c) Notice to Media of Emergency Meetings.** The Town Clerk or the Clerk's designee shall provide notice of an emergency meeting to the media as follows:

- (1) to each local newspaper, local wire service, local radio station, and local television station that has filed a written request with the town clerk for notice of emergency meetings. To be valid, the request must include the newspaper's, wire service's, or station's telephone number.
- (2) Notice may be given by telephone, e-mail, or the same method used to notify council members.
- (3) Notice must be provided immediately after council members have been notified.

**(d) Transaction of Other Business Prohibited.** Only business connected with the emergency may be considered at an emergency meeting.

### **Rule 12. Recessed Meetings**

**(a) Calling Recessed Meetings.** The council may recess any properly called meeting to another date, time, and/or place by adopting a procedural motion in open session. The motion must:

1. Be made as provided in Rule 31, Motion 3, in open session.

2. Must state the date, time, and place at which the meeting will reconvene.

**(b) Notice of Recessed Meetings.** Notice of the recessed meeting's date, time, and place shall be posted on the town's website prior to the meeting. No further notice of a properly called recessed meeting is required.

## Part VI. Agenda

### Rule 13. Agenda

#### (a) Draft Agenda.

- (1) **Preparation.** The town manager or the manager's designee shall prepare a draft agenda in advance of each town council meeting.
- (2) **Requesting placement of items on draft agenda.** For a regular meeting, the mayor or manager may place items on the agenda.
- (3) **Agenda Package.** The Town Clerk or Clerk's designee shall prepare an agenda package that accompanies the draft agenda. The package shall include, for each item of business listed on the draft agenda, an explanation and/or background information sufficient for council's consideration of the item. If the council is expected to consider a proposed ordinance or ordinance amendment, a copy of the proposal shall be included in the package.
- (4) **Delivery to council members.** Each council member shall receive an electronic copy of the draft agenda and the agenda package. Except in the case of an emergency meeting, the Town Clerk shall distribute the agenda and agenda package at least 24 hours before the meeting.
- (5) **Public inspection.** Once the Clerk has distributed the draft agenda and agenda package to the council, the Clerk shall publish it to the Town's website, making it available to the public.

#### (b) Adoption of the Agenda.

- (1) **Adoption.** At each meeting, the council shall review the draft agenda, make whatever amendments it deems appropriate, and adopt a formal agenda for the meeting.
- (2) **Amending the agenda.** Both before and after it adopts the agenda, the council may add or remove agenda items by majority vote of the members present and voting, except that:
  - a. the council may not add to the items stated in the notice of a special meeting unless the requirements in Rule 10(d) are satisfied; and
  - b. only business connected with the emergency may be considered at an emergency meeting.

**(c) Consent Agenda.** The council may designate part of any regular meeting agenda as the *consent agenda*. Items may be placed on the consent agenda by the person(s) charged with preparing the draft agenda if the items are judged to be noncontroversial and routine. All items on the consent agenda must be voted on and adopted by a single motion.

Prior to the council's adoption of the meeting agenda under subparagraph (b)(1) of this rule, any member may request to have an item removed from the consent agenda, which must be honored

by the council.

**(d) Informal Discussion of Agenda Items.** The council may informally discuss an agenda item even when no motion regarding that item is pending.

#### **Rule 14. Acting by Reference to Agenda or Other Document**

The council shall not deliberate, vote, or otherwise take action on any matter by reference to the agenda or any other document with the intention of preventing persons in attendance from understanding what action is being considered or undertaken. The council may deliberate and vote by reference to the agenda or any item on the agenda, including the consent agenda, provided:

- a) copies of the agenda are available for public inspection at the meeting; and
- b) the agenda is sufficiently worded to enable the public to understand what is being deliberated or acted upon.

#### **Rule 15. Agenda Items from Members of the Public**

If a member of the public wishes to request that the council include an item on a future agenda, he or she may communicate that to the Town Manager, a member of council or make the request at the public comment section of a regular meeting. The Town is not obligated to place an item on the agenda merely because such a request has been received.

#### **Rule 16. Order of Business**

Items may be placed on an agenda in any reasonable order and the council may remove, add or rearrange the order as part of the motion to adopt the agenda. Without objection, the mayor may call agenda items in any order most convenient for the dispatch of business.

### **Part VII. Role of the Presiding Officer**

#### **Rule 17. The Mayor**

**(a) Presiding Officer.** When present, the mayor shall preside at meetings of the council.

**(b) Right to Vote.** The mayor votes on the same basis as other council members, though in no event may the mayor break a tie on a motion on which he or she has already voted. The mayor shall have the right to make motions.

**(c) Recognition of Members.** A member must be recognized by the mayor (or other presiding officer) in order to address the council, but recognition is not necessary for an appeal pursuant to Rule 31, Motion 1.

**(d) Powers as Presiding Officer.** As presiding officer, the mayor is to enforce these rules and maintain order and decorum during council meetings. To that end, the mayor may:

- (1) rule on points of parliamentary procedure, to include ruling out of order any motion clearly offered for obstructive or dilatory purposes;
- (2) determine whether a member or other speaker has gone beyond reasonable standards of courtesy in his or her remarks and entertain and rule on objections from other members on

this ground;

- (3) entertain and answer questions of parliamentary procedure;
- (4) call a brief recess at any time;
- (5) open and close public hearings, and
- (6) adjourn in an emergency.

**(e) Appeals of Procedural Rulings.** A member may appeal a decision made or answer given by the mayor under subparagraph (d)(1), (2), or (3) in accordance with Rule 31, Motion 1.

#### **Rule 18. The Mayor Pro Tempore**

**(a) Presiding in Mayor's Absence.** When present, the mayor pro tempore shall preside over council meetings in the mayor's absence with all the powers specified in Rule 17(d).

**(b) Delegation of Mayor's Powers/Duties.** In the mayor's absence, the council may confer on the mayor pro tempore any of the mayor's powers and duties. Likewise, if the mayor becomes physically or mentally unable to perform the duties of his or her office, the council may by unanimous vote declare the mayor incapacitated and confer any of the mayor's powers and duties on the mayor pro tempore. When the mayor announces that he or she is no longer incapacitated, and a majority of the council concurs, the mayor shall resume the exercise of his or her powers and duties.

**(c) Duty to Vote.** Even when presiding over a council meeting, the mayor pro tempore has the same duty as other members to vote on all questions unless he or she has been excused from voting on a matter in accordance with Rule 28.

#### **Rule 19. Other Presiding Officer**

If both the mayor and mayor pro tempore are absent, the council may elect from among its members a temporary presiding officer to chair the meeting. While serving as temporary presiding officer, a member has the powers listed in Rule 17(d). Service as a temporary presiding officer does not relieve a member of the duty to vote on all questions unless excused from voting pursuant to Rule 28.

#### **Rule 20. Mayor may be Active in Debate**

In recognition of the fact that the mayor is a member of the council, the mayor, or mayor pro tempore when presiding, shall have full rights to be active in debate and need not relinquish the duties of presiding officer when so engaged.

### **Part VIII. Motions and Voting**

#### **Rule 21. Action by the Council**

Except as otherwise provided in these rules, the council shall act by motion. Any member may make a motion, including the mayor.

#### **Rule 22. Second Required**

A second is required on any motion.

### **Rule 23. One Motion at a Time**

A member may make only one motion at a time.

### **Rule 24. Withdrawal of Motion**

The member who introduces a motion may withdraw the motion unless the motion has been amended or the presiding officer has put the motion to a vote.

### **Rule 25. Debate**

The presiding officer shall state the motion and then open the floor to debate. To the extent practicable, the presiding officer shall call on members in the order they request to be recognized.

### **Rule 26. Adoption by Majority Vote**

A motion is adopted if supported by a simple majority of the votes cast, a quorum being present, except when a larger majority is required by these rules or state law. See Rule 32 for the votes required to adopt an ordinance on the date of introduction.

### **Rule 27. Changing a Vote**

A member may change his or her vote on a motion at any time before the presiding officer announces whether the motion has passed or failed. Once the presiding officer announces the result, a member may only change his or her vote with the unanimous consent of the remaining members present. A member's request for unanimous consent to change a vote must be made immediately following the presiding officer's announcement of the result.

### **Rule 28. Duty to Vote**

**(a) Duty to Vote.** Every council member must vote except when excused from voting as provided by this rule.

**(b) Grounds for Excusal.** A member may be excused from voting on a matter involving the member's own financial interest or official conduct, unless the proposal in question is one to alter the compensation or allowances paid to council members.

Members may also be excused from voting when prohibited from voting under:

1. G.S. 14-234 (contract providing direct benefit to member),
2. G.S. 160D-109(a) (legislative zoning decision likely to have a direct, substantial, and readily identifiable financial impact on member), or
3. G.S. 160D-406(i) and -109(d) (member's participation in quasi-judicial decision would violate affected person's right to an impartial decision maker).

Questions about whether a basis for excusal exists should be directed to the town attorney.

#### **(c) Procedure for Excusal.**

1. (1) ***At member's request.*** Upon being recognized at a duly called meeting of the council,

a member who wishes to be excused from voting shall so inform the presiding officer, who must then submit the matter to a vote of the remaining members present. If a majority of the remaining members present vote to excuse the member, the member is excused from voting on the matter.

2. (2) **On council's initiative.** Even when a member has not asked to be excused from voting on a matter, a majority of the remaining council members present may by motion and vote excuse the member from voting if grounds for doing so exist under paragraph (b).

**(d) Consequence of Non-Excused Failure to Vote.** Except as specified in paragraph (e), if a member who has not been excused from voting fails to vote on a matter, the member's failure to vote shall be recorded as an affirmative vote, provided

- (1) the member is physically present in the council chamber or
- (2) the member has physically withdrawn from the meeting without being excused by majority vote of the remaining members present.

**(e) Failure to Vote on Certain Zoning Matters.** A member's unexcused failure to vote shall not be recorded as an affirmative vote if the motion concerns a proposal to amend, supplement, or repeal a zoning ordinance. Instead, the member's unexcused failure to vote shall be recorded as an abstention.

## **Rule 29. Voting by Written Ballot**

**(a) Secret Ballots Prohibited.** The council may not vote by secret ballot.

**(b) Rules for Written Ballots.** The council may decide by majority vote or unanimous consent to vote on a motion by written ballot. Each member must sign his or her ballot, and the minutes must record how each member voted by name. The ballots must be made available for public inspection in the town clerk's office immediately following the meeting at which the vote took place and remain there until the minutes of that meeting are approved, at which time the ballots may be destroyed.

## **Rule 30. Substantive Motions**

A substantive motion is not in order if made while another motion is pending. Once the council disposes of a substantive motion, it may not take up a motion that presents essentially the same issue at the same meeting, unless it first adopts a motion to reconsider pursuant to Rule 31, Motion 14.

## **Rule 31. Procedural Motions**

**(a) Certain Motions Allowed.** The council may consider only those procedural motions listed in this rule. Unless otherwise noted, each procedural motion may be debated and amended and requires a majority of votes cast, a quorum being present, for adoption.

**(b) Priority of Motions.** The procedural motions set out in this paragraph are listed in order of priority. A procedural motion is not in order so long as another procedural motion of higher

priority is pending, except that

- any procedural motion other than an appeal under Motion 1 is subject to amendment as provided in Motion 12, and
- a motion to call the question (end debate) may be made with regard to any procedural motion in accordance with Motion 9.

When several procedural motions are pending, voting must begin with the procedural motion highest in priority, provided that a motion to amend or end debate on the highest priority motion must be voted on first.

**Motion 1. To Appeal a Ruling of the Presiding Officer.** Any member may appeal the presiding officer's ruling on whether a motion is in order or on whether a speaker has violated reasonable standards of courtesy. The presiding officer's response to a question of parliamentary procedure may also be appealed by any member. An appeal is in order immediately after the disputed ruling or parliamentary response and at no other time. The member who moves to appeal need not be recognized by the presiding officer, and if timely made, the motion may not be ruled out of order.

**Motion 2. To Adjourn.** This motion may be used to close a meeting. It is not in order if the council is in closed session.

**Motion 3. To Recess to a Time and Place Certain.** This motion may be used to call a recessed meeting as permitted under Rule 12. The motion must state the time (including the date, if the meeting will reconvene on a different day) and place at which the meeting will resume. The motion is not in order if the council is in closed session.

**Motion 4. To Take a Brief Recess.**

**Motion 5. To Follow the Agenda.** This motion must be made at the time an item of business that deviates from the agenda is proposed; otherwise, the motion is out of order as to that item.

**Motion 6. To Suspend the Rules.** To be adopted, a motion to suspend the rules must receive affirmative votes equal to at least three-fifths of the council's actual membership, excluding vacant seats. The council may not suspend provisions in these rules that are required under state law.

**Motion 7. To Divide a Complex Motion.** This motion is in order whenever a member wishes to consider and vote on parts of a complex motion separately. The member who makes this motion must specify how the complex motion will be divided.

**Motion 8. To Defer Consideration.** The council may defer its consideration of a substantive motion, and any proposed amendments thereto, to an unspecified time. A motion that has been deferred expires, unless the council votes to revive it pursuant to Motion 13 within 100 days of deferral. A new motion having the same effect as a deferred motion may not be introduced until the latter has expired.

**Motion 9. To End Debate (Call the Previous Question).** If adopted, this motion terminates debate on a pending motion, thereby bringing it to an immediate vote. This motion is not in order until every member present has had an opportunity to speak once on the pending motion.

**Motion 10. To Postpone to a Certain Time.** This motion may be employed to delay the council's

consideration of a substantive motion, and any proposed amendments thereto, until a designated day, meeting, or hour. During the period of postponement, the council may not take up a new motion raising essentially the same issue without first suspending its rules pursuant to Motion 6.

**Motion 11. To Refer a Motion to a Committee.** The council may vote to refer a substantive motion to a committee for study and recommendations. While the substantive motion is pending before the committee, the council may not take up a new motion raising essentially the same issue without first suspending its rules pursuant to Motion 6. If the committee fails to report on the motion within 60 days of the referral date, the council must take up the motion if asked to do so by the member who introduced it.

**Motion 12. To Amend.**

**(a) Germaneness.** A motion to amend must concern the same subject matter as the motion it seeks to alter.

**(b) Limit on Number of Motions to Amend.** When a motion to amend is under consideration, a motion to amend the amendment may be made; however, no more than one motion to amend and one motion to amend the amendment may be pending at the same time.

**(c) Amendments to Ordinances.** Any amendment to a proposed ordinance must be reduced to writing before the vote on the amendment.

**Motion 13. To Revive Consideration.** The council may vote to revive consideration of any substantive motion that has been deferred pursuant to Motion 8, provided it does so within 100 days of its vote to defer consideration.

**Motion 14. To Reconsider.** The council may vote to reconsider its action on a matter, provided the motion to reconsider is made (a) at the same meeting during which the action to be reconsidered was taken and (b) by a member who voted with the prevailing side. For purposes of this motion, “the same meeting” includes any continuation of a meeting through a motion to recess to a certain time and place (Motion 3). The motion is not in order if it interrupts the council’s deliberation on a pending matter.

**Motion 15. To Rescind.** The council may vote to rescind an action taken at a prior meeting provided rescission is not forbidden by law.

**Motion 16. To Prevent Reintroduction for Six Months.** This motion may be used to prevent the reintroduction of a failed substantive motion for a time, but it is in order only when made immediately following the substantive motion’s defeat. To be adopted, this motion must receive votes equal to at least three-fifths of the council’s actual membership, excluding vacant seats. If this motion is adopted, the ban on reintroduction remains in effect for six months or until the council’s next organizational meeting, whichever occurs first.

**Motion 17. To Ratify.** The council may ratify any action that it had or has authority to take.

## Part IX. Ordinances and Contracts

### Rule 32. Introduction of Ordinances

Notwithstanding the provisions of G.S. 160-75, an ordinance or any action having the effect of an ordinance may be finally adopted on the date on which it is introduced by the affirmative vote of majority of the members of the Town Council. (See Section 3 of S.L. 2024-14)

### Rule 33. Adoption, Amendment, and Repeal of Ordinances

#### Adoption of Ordinances.

**(a) Proposed ordinances to be in writing.** No proposed ordinance shall be adopted unless it has been reduced to writing ~~and distributed to members~~ before a vote on adoption is taken.

**(b) Amendment and Repeal of Ordinances.** The same voting requirements that govern the adoption of proposed ordinances also apply to the amendment or repeal of an ordinance.

### Rule 34. Adoption of the Budget Ordinance

**(a) Special Rules for the Adoption or Amendment of the Budget Ordinance.** Notwithstanding any provision in the town charter, general law, or local act,

- (1) the council may adopt or amend the budget ordinance at a regular or special meeting of the council by a simple majority of those members present and voting, a quorum being present; and
- (2) no action taken with respect to the adoption or amendment of the budget ordinance need be published or is subject to any other procedural requirement governing the adoption of ordinances or resolutions by the council.

**(b) Notice Requirements for Budget Meetings.** During the period beginning with the submission of the budget to the council and ending with the adoption of the budget ordinance, the council may hold any special meetings that may be necessary to complete its work on the budget ordinance. Except for the notice requirements of the open meetings law, which continue to apply, no provision of law concerning the call of special meetings applies during that period so long as:

- each member of the board has actual notice of each special meeting called for the purpose of considering the budget; and
- no business other than consideration of the budget is taken up.

**(c) No Authority for Closed Sessions.** This rule shall not be construed to authorize the council to hold closed sessions on any basis other than the grounds set out in Rule 5.

### Rule 35. Approval of Contracts and Authorization of Expenditures

**(a) Contracts to be in Writing.** No contract shall be approved or ratified by the town council unless it has been reduced to writing at the time of the council's vote.

**(b) Approval of Contracts.** To be approved or ratified, a contract must receive affirmative votes equal to at least a majority of all council members not excused from voting on the contract.

**(c) Authorization of Expenditure of Public Funds.** The same vote necessary to approve or ratify a contract is required for the council to authorize the expenditure of public funds, except when the expenditure is authorized pursuant to Rule 34.

## **Part X. Public Hearings and Comment Periods**

### **Rule 36. Public Hearings**

**(a) Calling Public Hearings.** In addition to holding public hearings required by law, the council may hold any public hearings it deems advisable. The council may schedule hearings or delegate that responsibility to staff members, as appropriate, except when state law directs the council itself to call the hearing. If the council delegates scheduling authority, it must provide adequate guidance to assist staff members in exercising that authority. Any item that has been considered by the Planning Board may be scheduled for hearing by the staff without further action by council.

**(b) Public Hearing Locations.** Public hearings may be held anywhere within Southern Pines or within Moore County.

**(c) Rules for Public Hearings.** The following rules shall apply to public hearings before the council:

- Legislative hearings: each side is allotted up to twenty (20) minutes for their presentation. If the applicant desires a rebuttal, an additional time of five (5) minutes per side shall be allowed for rebuttal.
- Evidentiary hearings: the mayor or the council may limit the time for presentations to a reasonable period and may limit the number of speakers if the presentations become repetitive.
- Groups supporting or opposing the same positions may designate a spokesperson(s).
- When the number of persons wishing to attend the hearing exceeds the capacity of the meeting location, the mayor or council may provide for the selection of delegates from groups of persons supporting or opposing the same positions. In this event, if the hearing is subject to the open meetings law, arrangements must be made so that those excluded from the meeting location may listen to the hearing.
- The mayor shall have the authority to maintain order and decorum in the conduct of hearings. The mayor may rule speakers out of order and take other measures necessary to maintain order, to include the exclusion of disorderly persons from the meeting location.

**(d) Notice of Public Hearings.** Any public hearing at which a majority of the council is present shall be considered part of a regular or special meeting. Consequently, the relevant notice and related requirements of the open meetings law, as set out in Rules 9 through 12, apply to such hearings. If state law mandates additional notice for particular types of hearings, such notice must be provided together with notice of the meeting during which the hearing will take place.

**(e) Continuing Public Hearings.** The council may continue any public hearing without further advertisement to a date, time, and place certain, provided the details of the continued hearing

are announced in open session.

Except for hearings conducted pursuant to paragraph (g), if a quorum of the council is not present for a properly scheduled public hearing, the hearing shall be deemed continued until the council's next regular meeting without further advertisement.

**(f) Conduct of Public Hearings.** At the time appointed for the hearing, the mayor shall call the hearing to order and proceed to allow public input in accordance with rules adopted by the council for the hearing. The mayor shall declare the hearing closed, and the council shall resume the regular order of business:

1. unless the council extends or continues the hearing;
2. when the time allotted for the hearing expires; or
3. when each person who wishes to speak has had an opportunity to do so.

**(g) Public Hearings by Less Than a Majority of Council Members.** Nothing in this rule prevents the council from appointing a member or members of council, or a staff member, to hold a public hearing on the council's behalf, except when state law requires that the council itself conduct the hearing.

### **Rule 37. Public Comment Periods**

**(a) Frequency of Public Comment Periods.** The council must provide at least one opportunity for public comment each month at a regular meeting, except that the council need not offer a public comment period during any month in which it does not hold a regular meeting.

**(b) Rules for Public Comment Periods.** The following rules for public comment periods shall apply:

- the maximum time allotted to each speaker shall be three (3) minutes,
- groups supporting or opposing the same positions may appoint spokespersons and yield their time to the spokespersons,
- the mayor shall have the authority to maintain order and decorum in the conduct of public comment periods and may rule speakers out of order and may take other measures necessary to maintain order including excluding disorderly persons from the meeting location.
- a maximum of ten (10) speakers per council meeting will be allowed to speak during the public comment period unless the council agrees to hear additional speakers. Further, to allow for a variety of issues to be presented to council, a maximum of six (6) speakers on any single issue or topic will be allowed at any public comment period. Speakers must sign up with the Clerk (preferably upon arriving at the meeting) and sign-up is on a first come, first served basis.
- the mayor has the authority to call the speakers in any order desired.
- comments regarding matters subject to a legally required public hearing are out of order during public comment periods and may only be made during the public hearing.

**(c) Content-Based Restrictions Generally Prohibited.** The council may not restrict speakers based on subject matter, as long as their comments do not:

1. Pertain to subjects outside the council's real or apparent jurisdiction.
2. Promote, foster, or perpetrate discrimination on the basis of race, color, religion, national origin, sex, sexual orientation, age or physical disability.
3. Advocate illegal activity or compromise safety or security of the public.

## **Part XI. Appointments and Appointed Bodies**

### **Rule 38. Appointments**

**(a) Appointments in Open Session.** The council must consider and make any appointment to another body or, in the event of a vacancy on the council, to its own membership, in open session.

**(b) Nomination and Voting Procedure.** The council shall use the following procedure to fill a vacancy in the council itself or in any other body over which it has the power of appointment. The mayor shall open the floor for nominations, whereupon council members may put forward and debate nominees. If only one nomination is made the council may vote on that as a motion to appoint. Appointees recommended by a commission or board may be placed on the consent agenda.

**(c) Mayor.** The mayor may make nominations and vote on appointments under this rule.

**(d) Multiple Appointments.** If the council is filling more than one vacancy, each member shall have as many votes in each balloting as there are slots to be filled, and the votes of a majority of the total number of members voting shall be required for each appointment. No member may cast more than one vote for the same candidate for the same vacancy during a single balloting.

**(e) Duty to Vote.** It is the duty of each member to vote for as many appointees as there are appointments to be made, but failure to do so shall not invalidate a member's ballot.

**(f) Vote by Written Ballot.** The council may vote on proposed appointments by written ballot in accordance with Rule 29.

### **Rule 39. Committees and Boards**

**(a) Establishment and Appointment.** The council may establish temporary and standing committees, boards, and other bodies to help carry on the work of town government. Unless otherwise provided by law or the council, the power of appointment to such bodies lies with the council.

**(b) Open Meetings Law.** The requirements of the open meetings law apply whenever a majority of an appointed body's members gather in person or simultaneously by electronic means to discuss or conduct official business. They do not apply to meetings solely among the town's professional staff.

**(c) Procedural Rules.** The council may prescribe the procedures by which the city's appointed bodies operate, subject to any statutory provisions applicable to particular bodies. In the absence of rules adopted by the council, an appointed body may promulgate its own procedural rules, so

long as they are in keeping with any relevant statutory provisions and generally accepted principles of parliamentary procedure.

## **Part XII. Miscellaneous**

### **Rule 40. Amendment of the Rules**

These rules may be amended at any regular meeting or at any properly called special meeting for which amendment of the rules is one of the meeting's stated purposes. Any amendment to these rules must be consistent with the town charter, any relevant statutes, and generally accepted principles of parliamentary procedure. To be adopted, a motion to amend these rules must be approved by a majority of the council's members (including the mayor), excluding vacant seats.

### **Rule 41. Reference to Robert's Rules of Order Newly Revised**

The council shall refer to *Robert's Rules of Order Newly Revised* for guidance when confronted with a procedural issue not covered by these rules or state law. Having consulted *Robert's*, the mayor shall make a ruling on the issue subject to appeal to the council under Rule 31, Motion 1.



## **Rules of Procedure**

### **Southern Pines Town Council**

**Adopted September 27, 2024**

#### **Part I. Applicability**

##### **Rule 1. Applicability of Rules**

These rules apply to all meetings of the Southern Pines Town Council. For purposes of these rules, a meeting of the council occurs whenever a majority of the council's members gather, whether in person or simultaneously by electronic means, to conduct hearings, deliberate, vote, or otherwise transact public business within the council's jurisdiction. The term "majority" as used here and elsewhere in these rules means, unless otherwise specified, a simple majority, that is, more than half.

#### **Part II. Quorum**

##### **Rule 2. Quorum**

The presence of a quorum is necessary for the council to conduct business. A majority of the council's actual membership, including the mayor, excluding vacant seats, constitutes a quorum. For Southern Pines, when all five seats are filled, a quorum is 3 members. A member who withdraws from a meeting without being excused by majority vote of the remaining members in attendance is deemed present for quorum purposes.

#### **Part III. Open Meetings**

##### **Rule 3. Remote Participation in Council Meetings**

Members of council may participate remotely during declared emergencies as allowed by state law. In all other instances If a member attends via electronic means the member may take part in discussion and debate but the member will not be counted toward a quorum or allowed to vote on any matter before the council unless authorized by state law.

##### **Rule 4. Meetings to Be Open to the Public**

Except as permitted by Rule 5, all meetings of the council shall be open to the public, and any person may attend its meetings.

##### **Rule 5. Closed Sessions**

**(a) Motion to Enter Closed Session.** The town council may enter a closed session from which the public is excluded only upon a motion duly made and adopted in open session. The motion to enter closed session must cite one or more of the permissible bases listed in

paragraph (b) of this rule. A motion to enter closed session under subparagraph (b)(1) or (b)(2) must contain the additional information specified in those provisions.

**(b) Bases for Closed Session.** A closed session is permissible under the following circumstances and no others:

- (1) Privileged or Confidential Information: To prevent the disclosure of information that is privileged or confidential pursuant to the law of North Carolina or of the United States or that does not constitute a public record within the meaning of Chapter 132 of the General Statutes. The motion to enter closed session must name or cite the law that renders the information confidential or privileged.
- (2) Attorney-Client Confidentiality: To consult with the town attorney or another attorney employed or retained by the town in order to preserve the attorney–client privilege. If the council expects to discuss a pending lawsuit with its attorney, the motion to enter closed session must include the names of the parties to the lawsuit.
- (3) Economic Development and/or Military Installation: To discuss matters relating to (a) the location or expansion of industries or other businesses in the area served by the town or (b) the closure or realignment of a military installation. The council may reach agreement in closed session on a tentative list of economic development incentives to be offered in negotiations, but the approval of the signing of any economic development contract or commitment and the authorization of the payment of economic development expenditures must take place in open session.
- (4) Real Property Acquisition: To establish or instruct staff or agents concerning the town’s position in negotiating the price or other material terms of an agreement for the acquisition of real property by purchase, exchange, or lease.
- (5) Employment Contract: To establish or instruct staff or agents concerning the amount of compensation or other material terms of an employment contract.
- (6) Personnel: To consider the qualifications, competence, performance, character, fitness, or conditions of appointment or employment of a public officer or employee or prospective public officer or employee. Final action to appoint or employ a public officer or employee must take place in open session.  
*Exclusion:* An open session is required when the individual in question is a member of the town council or other public body or is being considered to fill a vacancy on the town council or other public body.
- (7) Charge or Complaint: To hear or investigate a charge or complaint by or against a public officer or employee. Final action discharging an employee or removing an officer must occur in open session.
- (8) Alleged Criminal Misconduct: To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct.
- (9) Law Enforcement Recording: To view a law enforcement recording released pursuant to G.S. 132-1.4A.
- (10) On any other basis permitted by law.

**(c) Closed Session Participants.** Unless the council directs otherwise, the town manager and town attorney may attend closed sessions of the council. No other person may attend a closed session unless invited by the council.

**(d) Motion to Return to Open Session.** Upon completing its closed session business, the council shall end the closed session by adopting a duly made motion to return to open session.

## **Rule 6. Meeting Minutes**

**(a) Minutes Required for All Meetings.** The council must keep full and accurate minutes of all of its meetings, including closed sessions. To be “full and accurate,” minutes must record all actions taken by the council. They should set out the precise wording of each motion and make it possible to determine the number of votes cast for and against each motion. The minutes need not record discussions of the council, though the council in its discretion may decide to incorporate such details into the minutes.

**(b) Record of “Ayes” and “Noes.”** At the request of any member of the council, the minutes shall list each member by name and record how each member voted on a particular matter.

**(c) General Accounts of Closed Sessions.** In addition to minutes, the council must keep a general account of each closed session. The general account must be sufficiently detailed to provide a person not in attendance with a reasonable understanding of what transpired. The council may combine the minutes and general account of a closed session into one document, so long as the document contains both a complete record of actions taken and the level of detail required for a general account.

**(d) Sealing Closed Session Records.** Minutes and general accounts of closed sessions shall be sealed until unsealed by order of the council or, if the council delegates the authority to unseal to one or more staff members, in accordance with guidelines adopted by the council. The sealed minutes and general account of any closed session may be withheld from public inspection so long as public inspection would frustrate the purpose(s) of the closed session.

## **Rule 7. Broadcasting and Recording Meetings**

**(a) Right to Broadcast and Record.** Any person may photograph, film, tape-record, or otherwise reproduce any part of a council meeting that must take place in open session. Except as provided in paragraph (c) of this rule, any media entity may broadcast any such part of a council meeting.

**(b) Advance Notice.** Any media entity that plans to broadcast any portion of a council meeting shall so notify the town manager before the meeting. The failure to provide notice is not, by itself, grounds for preventing the broadcast of a council meeting.

**(c) Equipment Placement.** The town manager or the manager’s designee may regulate the placement and use of camera or recording equipment in order to prevent undue interference with a council meeting, so long as the equipment is allowed to be placed where it can carry out its intended function. If the town manager determines in good faith that the equipment and personnel necessary to broadcast, photograph, or record the meeting cannot be accommodated without undue interference to the meeting, and an adequate alternative meeting room is not readily available, the town manager may require the pooling of the equipment and the personnel operating it.

**(d) Alternative Meeting Site.** If the news media request an alternative meeting site to accommodate news coverage, and the council grants the request, the news media making the request shall pay the costs incurred by the town in securing an alternative meeting site.

## **Part IV. Organization of the Council**

### **Rule 8. Organizational Meeting; Selection of Mayor Pro Tempore**

**(a) Scheduling Organizational Meeting.** The council must hold an organizational meeting following each general election in which council members are elected. The organizational meeting must be held either (1) on the date and at the time of the council's first regular meeting in December following the election or (2) at an earlier date, if any, set by the incumbent council. The organizational meeting may not be held before municipal election results are officially determined, certified, and published as required by law.

**(b) Oath of Office.** As the first order of business at the organizational meeting, all newly elected members of the council must take and subscribe the oath of office set out in Article VI, Section 7, of the North Carolina Constitution. Each member's oath must be filed with the town clerk.

Although a member who is not present for the organizational meeting may take the oath of office at another time, every member must take, subscribe, and file the oath before he or she begins performing any of the duties of the member's office.

**(c) Selection of Mayor Pro Tempore.** At the organizational meeting, the council shall elect from among its members a mayor pro tempore using the procedures specified in Rule 38. The mayor pro tempore shall serve at the council's pleasure.

## **Part V. Types of Meetings**

### **Rule 9. Regular Meetings**

**(a) Regular Meeting Schedule.** The council shall hold a regular meeting on the second and fourth Tuesday of each month. The meetings shall be held at the times and locations as set out on the meeting schedule adopted by the council. A copy of the council's current meeting schedule shall be filed with the town clerk and may be posted on the town's website.

**(b) Change to Meeting Schedule.** Notwithstanding paragraph (a) of this rule, the council may amend its regular meeting schedule to add or delete meetings or to change the date, time, or location of one or more meetings on the schedule. The amended schedule shall be filed with the town clerk at least seven (7) calendar days before the day of the first meeting held pursuant to the revised schedule.

### **Rule 10. Special Meetings**

**(a) Calling Special Meetings.** A special meeting may be called in either of two ways:

- (1) called by vote of the council in open session during a regular meeting or another duly called special meeting; or
- (2) called by the mayor, the mayor pro tempore, or any two council members.
  - a. A written notice of the meeting—setting out the time and place and the subjects to be considered—must be prepared and signed by the person(s) calling the meeting.
  - b. Said notice must be posted and distributed in accordance with sub paragraphs (b) and (c).

**(b) Notice to the Public.** At least 48 hours before a special meeting of the council, the Town Clerk or the Clerk's designee shall provide notice of the date, time, place, and purpose of the meeting:

- (1) posted on the council's principal bulletin board or, if the council has no such board, at the door of the council's usual meeting room.
- (2) delivered, e-mailed, or mailed to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the town clerk, and
- (3) posted on the town website in advance of the meeting.

**(c) Notice to Members.**

- (1) ***Meeting called by the mayor, the mayor pro tempore, or any two council members.*** At least 48 hours before a special meeting called by the mayor, the mayor pro tempore, or any two council members, written notice of the meeting stating its date, time, and place, as well as the subjects to be considered, shall be delivered to the mayor and each council member or left at his or her usual dwelling place.
- (2) ***Meeting called by vote of the council in open session.*** When a special meeting is called by vote of the council in open session during a regular meeting or another duly called special meeting, the motion or resolution calling the special meeting shall state the meeting's date, time and place.

**(d) Transacting Other Business.** The council may only take up those business items specified in the notice of the special meeting, unless all members are present or any absent member has signed a written waiver of notice.

Even when all members are present or any absent member has signed a waiver, the council may take up an item of business not covered by the notice only if the council first determines in good faith that the item must be discussed or acted upon immediately.

## **Rule 11. Emergency Meetings**

**(a) Grounds for Emergency Meeting.** Emergency meetings of the council may be called only to address generally unexpected circumstances demanding the council's immediate attention.

**(b) Calling Emergency Meetings.** There are two methods by which an emergency meeting of the council may be called.

- (1) The mayor, the mayor pro tempore, or any two members of the council may at any time call an emergency council meeting by signing a written notice stating the date, time, and place of the meeting and the subjects to be considered. The notice shall be delivered to the mayor and each council member or left at his or her usual dwelling place at least six hours before the meeting.
- (2) An emergency meeting may be held when the mayor and all members of the council are present and consent thereto, or when any absent member has signed a written waiver of notice.

**(c) Notice to Media of Emergency Meetings.** The Town Clerk or the Clerk's designee shall provide notice of an emergency meeting to the media as follows:

- (1) to each local newspaper, local wire service, local radio station, and local television station that has filed a written request with the town clerk for notice of emergency meetings. To be valid, the request must include the newspaper's, wire services, or station's telephone number.
- (2) Notice may be given by telephone, e-mail, or the same method used to notify council members.
- (3) Notice must be provided immediately after council members have been notified.

**(d) Transaction of Other Business Prohibited.** Only business connected with the emergency may be considered at an emergency meeting.

## **Rule 12. Recessed Meetings**

**(a) Calling Recessed Meetings.** The council may recess any properly called meeting to another date, time, and/or place by adopting a procedural motion in open session. The motion must:

- (1) Be made as provided in Rule 31, Motion 3, in open session.
- (2) Must state the date, time, and place at which the meeting will reconvene.

**(b) Notice of Recessed Meetings.** Notice of the recessed meeting's date, time, and place shall be posted on the town's website prior to the meeting. No further notice of a properly called recessed meeting is required.

## **Part VI. Agenda**

### **Rule 13. Agenda**

#### **(a) Draft Agenda.**

- (1) **Preparation.** The town manager or the manager's designee shall prepare a draft agenda in advance of each town council meeting.
- (2) **Requesting placement of items on draft agenda.** For a regular meeting, the mayor or manager may place items on the agenda.
- (3) **Agenda Package.** The Town Clerk or Clerk's designee shall prepare an agenda package that accompanies the draft agenda. The package shall include, for each item of business listed on the draft agenda, an explanation and/or background information sufficient for council's consideration of the item. If the council is expected to consider a proposed ordinance or ordinance amendment, a copy of the proposal shall be included in the package.
- (4) **Delivery to council members.** Each council member shall receive an electronic copy of the draft agenda and the agenda package. Except in the case of an emergency meeting, the Town Clerk shall distribute the agenda and agenda package at least 24 hours before the meeting.
- (5) **Public inspection.** Once the Clerk has distributed the draft agenda and agenda package to the council, the Clerk shall publish it to the Town's website, making it available to the public.

#### **(b) Adoption of the Agenda.**

- (1) **Adoption.** At each meeting, the council shall review the draft agenda, make whatever amendments it deems appropriate, and adopt a formal agenda for the meeting.

- (2) **Amending the agenda.** Both before and after it adopts the agenda, the council may add or remove agenda items by majority vote of the members present and voting, except that:
- a. the council may not add to the items stated in the notice of a special meeting unless the requirements in Rule 10(d) are satisfied; and
  - b. only business connected with the emergency may be considered at an emergency meeting.

**(c) Consent Agenda.** The council may designate part of any regular meeting agenda as the *consent agenda*. Items may be placed on the consent agenda by the person(s) charged with preparing the draft agenda if the items are judged to be noncontroversial and routine. All items on the consent agenda must be voted on and adopted by a single motion.

Prior to the council's adoption of the meeting agenda under subparagraph (b)(1) of this rule, any member may request to have an item removed from the consent agenda, which must be honored by the council.

**(d) Informal Discussion of Agenda Items.** The council may informally discuss an agenda item even when no motion regarding that item is pending.

#### **Rule 14. Acting by Reference to Agenda or Other Document**

The council shall not deliberate, vote, or otherwise take action on any matter by reference to the agenda or any other document with the intention of preventing persons in attendance from understanding what action is being considered or undertaken. The council may deliberate and vote by reference to the agenda or any item on the agenda, including the consent agenda, provided:

- a. copies of the agenda are available for public inspection at the meeting; and
- b. the agenda is sufficiently worded to enable the public to understand what is being deliberated or acted upon.

#### **Rule 15. Agenda Items from Members of the Public**

If a member of the public wishes to request that the council include an item on a future agenda, he or she may communicate that to the Town Manager, a member of council or make the request at the public comment section of a regular meeting. The Town is not obligated to place an item on the agenda merely because such a request has been received.

#### **Rule 16. Order of Business**

Items may be placed on an agenda in any reasonable order and the council may remove, add or rearrange the order as part of the motion to adopt the agenda. Without objection, the mayor may call agenda items in any order most convenient for the dispatch of business.

### **Part VII. Role of the Presiding Officer**

#### **Rule 17. The Mayor**

**(a) Presiding Officer.** When present, the mayor shall preside at meetings of the council.

**(b) Right to Vote.** The mayor votes on the same basis as other council members, though in no event may the mayor break a tie on a motion on which he or she has already voted. The mayor

shall have the right to make motions.

**(c) Recognition of Members.** A member must be recognized by the mayor (or other presiding officer) in order to address the council, but recognition is not necessary for an appeal pursuant to Rule 31, Motion 1.

**(d) Powers as Presiding Officer.** As presiding officer, the mayor is to enforce these rules and maintain order and decorum during council meetings. To that end, the mayor may:

- (1) rule on points of parliamentary procedure, to include ruling out of order any motion clearly offered for obstructive or dilatory purposes;
- (2) determine whether a member or other speaker has gone beyond reasonable standards of courtesy in his or her remarks and entertain and rule on objections from other members on this ground;
- (3) entertain and answer questions of parliamentary procedure;
- (4) call a brief recess at any time;
- (5) open and close public hearings, and
- (6) adjourn in an emergency.

**(e) Appeals of Procedural Rulings.** A member may appeal a decision made or answer given by the mayor under subparagraph (d)(1), (2), or (3) in accordance with Rule 31, Motion 1.

#### **Rule 18. The Mayor Pro Tempore**

**(a) Presiding in Mayor's Absence.** When present, the mayor pro tempore shall preside over council meetings in the mayor's absence with all the powers specified in Rule 17(d).

**(b) Delegation of Mayor's Powers/Duties.** In the mayor's absence, the council may confer on the mayor pro tempore any of the mayor's powers and duties. Likewise, if the mayor becomes physically or mentally unable to perform the duties of his or her office, the council may by unanimous vote declare the mayor incapacitated and confer any of the mayor's powers and duties on the mayor pro tempore. When the mayor announces that he or she is no longer incapacitated, and a majority of the council concurs, the mayor shall resume the exercise of his or her powers and duties.

**(c) Duty to Vote.** Even when presiding over a council meeting, the mayor pro tempore has the same duty as other members to vote on all questions unless he or she has been excused from voting on a matter in accordance with Rule 28.

#### **Rule 19. Other Presiding Officer**

If both the mayor and mayor pro tempore are absent, the council may elect from among its members a temporary presiding officer to chair the meeting. While serving as temporary presiding officer, a member has the powers listed in Rule 17(d). Service as a temporary presiding officer does not relieve a member of the duty to vote on all questions unless excused from voting pursuant to Rule 28.

#### **Rule 20. Mayor may be Active in Debate**

In recognition of the fact that the mayor is a member of the council, the mayor, or mayor pro tempore when presiding, shall have full rights to be active in debate and need not relinquish the duties of presiding officer when so engaged.

## **Part VIII. Motions and Voting**

### **Rule 21. Action by the Council**

Except as otherwise provided in these rules, the council shall act by motion. Any member may make a motion, including the mayor.

### **Rule 22. Second Required**

A second is required on any motion.

### **Rule 23. One Motion at a Time**

A member may make only one motion at a time.

### **Rule 24. Withdrawal of Motion**

The member who introduces a motion may withdraw the motion unless the motion has been amended or the presiding officer has put the motion to a vote.

### **Rule 25. Debate**

The presiding officer shall state the motion and then open the floor to debate. To the extent practicable, the presiding officer shall call on members in the order they request to be recognized.

### **Rule 26. Adoption by Majority Vote**

A motion is adopted if supported by a simple majority of the votes cast, a quorum being present, except when a larger majority is required by these rules or state law. See Rule 32 for the votes required to adopt an ordinance on the date of introduction.

### **Rule 27. Changing a Vote**

A member may change his or her vote on a motion at any time before the presiding officer announces whether the motion has passed or failed. Once the presiding officer announces the result, a member may only change his or her vote with the unanimous consent of the remaining members present. A member's request for unanimous consent to change a vote must be made immediately following the presiding officer's announcement of the result.

### **Rule 28. Duty to Vote**

**(a) Duty to Vote.** Every council member must vote except when excused from voting as provided by this rule.

**(b) Grounds for Excusal.** A member may be excused from voting on a matter involving the member's own financial interest or official conduct, unless the proposal in question is one to alter the compensation or allowances paid to council members.

Members may also be excused from voting when prohibited from voting under:

- (1) G.S. 14-234 (contract providing direct benefit to member),
- (2) G.S. 160D-109(a) (legislative zoning decision likely to have a direct, substantial, and readily identifiable financial impact on member), or
- (3) G.S. 160D-406(i) and -109(d) (member's participation in quasi-judicial decision would violate affected person's right to an impartial decision maker).

Questions about whether a basis for excusal exists should be directed to the town attorney.

### **(c) Procedure for Excusal.**

- (1) **At member's request.** Upon being recognized at a duly called meeting of the council, a member who wishes to be excused from voting shall so inform the presiding officer, who must then submit the matter to a vote of the remaining members present. If a majority of the remaining members present vote to excuse the member, the member is excused from voting on the matter.
- (2) **On council's initiative.** Even when a member has not asked to be excused from voting on a matter, a majority of the remaining council members present may by motion and vote excuse the member from voting if grounds for doing so exist under paragraph (b).

**(d) Consequence of Non-Excused Failure to Vote.** Except as specified in paragraph (e), if a member who has not been excused from voting fails to vote on a matter, the member's failure to vote shall be recorded as an affirmative vote, provided

- (1) the member is physically present in the council chamber or
- (2) the member has physically withdrawn from the meeting without being excused by majority vote of the remaining members present.

**(e) Failure to Vote on Certain Zoning Matters.** A member's unexcused failure to vote shall not be recorded as an affirmative vote if the motion concerns a proposal to amend, supplement, or repeal a zoning ordinance. Instead, the member's unexcused failure to vote shall be recorded as an abstention.

### **Rule 29. Voting by Written Ballot**

**(a) Secret Ballots Prohibited.** The council may not vote by secret ballot.

**(b) Rules for Written Ballots.** The council may decide by majority vote or unanimous consent to vote on a motion by written ballot. Each member must sign his or her ballot, and the minutes must record how each member voted by name. The ballots must be made available for public inspection in the town clerk's office immediately following the meeting at which the vote took place and remain there until the minutes of that meeting are approved, at which time the ballots may be destroyed.

### **Rule 30. Substantive Motions**

A substantive motion is not in order if made while another motion is pending. Once the council disposes of a substantive motion, it may not take up a motion that presents essentially the same issue at the same meeting, unless it first adopts a motion to reconsider pursuant to Rule 31, Motion 14.

### **Rule 31. Procedural Motions**

**(a) Certain Motions Allowed.** The council may consider only those procedural motions listed in this rule. Unless otherwise noted, each procedural motion may be debated and amended and requires a majority of votes cast, a quorum being present, for adoption.

**(b) Priority of Motions.** The procedural motions set out in this paragraph are listed in order of priority. A procedural motion is not in order so long as another procedural motion of higher priority is pending, except that

- any procedural motion other than an appeal under Motion 1 is subject to amendment as provided in Motion 12, and

- a motion to call the question (end debate) may be made with regard to any procedural motion in accordance with Motion 9.

When several procedural motions are pending, voting must begin with the procedural motion highest in priority, provided that a motion to amend or end debate on the highest priority motion must be voted on first.

**Motion 1. To Appeal a Ruling of the Presiding Officer.** Any member may appeal the presiding officer's ruling on whether a motion is in order or on whether a speaker has violated reasonable standards of courtesy. The presiding officer's response to a question of parliamentary procedure may also be appealed by any member. An appeal is in order immediately after the disputed ruling or parliamentary response and at no other time. The member who moves to appeal need not be recognized by the presiding officer, and if timely made, the motion may not be ruled out of order.

**Motion 2. To Adjourn.** This motion may be used to close a meeting. It is not in order if the council is in closed session.

**Motion 3. To Recess to a Time and Place Certain.** This motion may be used to call a recessed meeting as permitted under Rule 12. The motion must state the time (including the date, if the meeting will reconvene on a different day) and place at which the meeting will resume. The motion is not in order if the council is in closed session.

**Motion 4. To Take a Brief Recess.**

**Motion 5. To Follow the Agenda.** This motion must be made at the time an item of business that deviates from the agenda is proposed; otherwise, the motion is out of order as to that item.

**Motion 6. To Suspend the Rules.** To be adopted, a motion to suspend the rules must receive affirmative votes equal to at least three-fifths of the council's actual membership, excluding vacant seats. The council may not suspend provisions in these rules that are required under state law.

**Motion 7. To Divide a Complex Motion.** This motion is in order whenever a member wishes to consider and vote on parts of a complex motion separately. The member who makes this motion must specify how the complex motion will be divided.

**Motion 8. To Defer Consideration.** The council may defer its consideration of a substantive motion, and any proposed amendments thereto, to an unspecified time. A motion that has been deferred expires, unless the council votes to revive it pursuant to Motion 13 within 100 days of deferral. A new motion having the same effect as a deferred motion may not be introduced until the latter has expired.

**Motion 9. To End Debate (Call the Previous Question).** If adopted, this motion terminates debate on a pending motion, thereby bringing it to an immediate vote. This motion is not in order until every member present has had an opportunity to speak once on the pending motion.

**Motion 10. To Postpone to a Certain Time.** This motion may be employed to delay the council's consideration of a substantive motion, and any proposed amendments thereto, until a designated day, meeting, or hour. During the period of postponement, the council may not take up a new motion raising essentially the same issue without first suspending its rules

pursuant to Motion 6.

**Motion 11. To Refer a Motion to a Committee.** The council may vote to refer a substantive motion to a committee for study and recommendations. While the substantive motion is pending before the committee, the council may not take up a new motion raising essentially the same issue without first suspending its rules pursuant to Motion 6. If the committee fails to report on the motion within 60 days of the referral date, the council must take up the motion if asked to do so by the member who introduced it.

**Motion 12. To Amend.**

**(a) Germaneness.** A motion to amend must concern the same subject matter as the motion it seeks to alter.

**(b) Limit on Number of Motions to Amend.** When a motion to amend is under consideration, a motion to amend the amendment may be made; however, no more than one motion to amend and one motion to amend the amendment may be pending at the same time.

**(c) Amendments to Ordinances.** Any amendment to a proposed ordinance must be reduced to writing before the vote on the amendment.

**Motion 13. To Revive Consideration.** The council may vote to revive consideration of any substantive motion that has been deferred pursuant to Motion 8, provided it does so within 100 days of its vote to defer consideration.

**Motion 14. To Reconsider.** The council may vote to reconsider its action on a matter, provided the motion to reconsider is made (a) at the same meeting during which the action to be reconsidered was taken and (b) by a member who voted with the prevailing side. For purposes of this motion, “the same meeting” includes any continuation of a meeting through a motion to recess to a certain time and place (Motion 3). The motion is not in order if it interrupts the council’s deliberation on a pending matter.

**Motion 15. To Rescind.** The council may vote to rescind an action taken at a prior meeting provided rescission is not forbidden by law.

**Motion 16. To Prevent Reintroduction for Six Months.** This motion may be used to prevent the reintroduction of a failed substantive motion for a time, but it is in order only when made immediately following the substantive motion’s defeat. To be adopted, this motion must receive votes equal to at least three-fifths of the council’s actual membership, excluding vacant seats. If this motion is adopted, the ban on reintroduction remains in effect for six months or until the council’s next organizational meeting, whichever occurs first.

**Motion 17. To Ratify.** The council may ratify any action that it had or has authority to take.

## **Part IX. Ordinances and Contracts**

### **Rule 32. Introduction of Ordinances**

Notwithstanding the provisions of G.S. 160-75, an ordinance or any action having the effect of an ordinance may be finally adopted on the date on which it is introduced by the affirmative vote of majority of the members of the Town Council. (See Section 3 of S.L. 2024-14)

## **Rule 33. Adoption, Amendment, and Repeal of Ordinances**

### **Adoption of Ordinances.**

**(a) Proposed ordinances to be in writing.** No proposed ordinance shall be adopted unless it has been reduced to writing before a vote on adoption is taken.

**(b) Amendment and Repeal of Ordinances.** The same voting requirements that govern the adoption of proposed ordinances also apply to the amendment or repeal of an ordinance.

## **Rule 34. Adoption of the Budget Ordinance**

**(a) Special Rules for the Adoption or Amendment of the Budget Ordinance.** Notwithstanding any provision in the town charter, general law, or local act,

- (1) the council may adopt or amend the budget ordinance at a regular or special meeting of the council by a simple majority of those members present and voting, a quorum being present; and
- (2) no action taken with respect to the adoption or amendment of the budget ordinance need be published or is subject to any other procedural requirement governing the adoption of ordinances or resolutions by the council.

**(b) Notice Requirements for Budget Meetings.** During the period beginning with the submission of the budget to the council and ending with the adoption of the budget ordinance, the council may hold any special meetings that may be necessary to complete its work on the budget ordinance. Except for the notice requirements of the open meetings law, which continue to apply, no provision of law concerning the call of special meetings applies during that period so long as:

- each member of the board has actual notice of each special meeting called for the purpose of considering the budget; and
- no business other than consideration of the budget is taken up.

**(c) No Authority for Closed Sessions.** This rule shall not be construed to authorize the council to hold closed sessions on any basis other than the grounds set out in Rule 5.

## **Rule 35. Approval of Contracts and Authorization of Expenditures**

**(a) Contracts to be in Writing.** No contract shall be approved or ratified by the town council unless it has been reduced to writing at the time of the council's vote.

**(b) Approval of Contracts.** To be approved or ratified, a contract must receive affirmative votes equal to at least a majority of all council members not excused from voting on the contract.

**(c) Authorization of Expenditure of Public Funds.** The same vote necessary to approve or ratify a contract is required for the council to authorize the expenditure of public funds, except when the expenditure is authorized pursuant to Rule 34.

## **Part X. Public Hearings and Comment Periods**

### **Rule 36. Public Hearings**

**(a) Calling Public Hearings.** In addition to holding public hearings required by law, the council may hold any public hearings it deems advisable. The council may schedule hearings or delegate

that responsibility to staff members, as appropriate, except when state law directs the council itself to call the hearing. If the council delegates scheduling authority, it must provide adequate guidance to assist staff members in exercising that authority. Any item that has been considered by the Planning Board may be scheduled for hearing by the staff without further action by council.

**(b) Public Hearing Locations.** Public hearings may be held anywhere within Southern Pines or within Moore County.

**(c) Rules for Public Hearings.** The following rules shall apply to public hearings before the council:

- Legislative hearings: each side is allotted up to twenty (20) minutes for their presentation. If the applicant desires a rebuttal, an additional time of five (5) minutes per side shall be allowed for rebuttal.
- Evidentiary hearings: the mayor or the council may limit the time for presentations to a reasonable period and may limit the number of speakers if the presentations become repetitive.
- Groups supporting or opposing the same positions may designate a spokesperson(s).
- When the number of persons wishing to attend the hearing exceeds the capacity of the meeting location, the mayor or council may provide for the selection of delegates from groups of persons supporting or opposing the same positions. In this event, if the hearing is subject to the open meetings law, arrangements must be made so that those excluded from the meeting location may listen to the hearing.
- The mayor shall have the authority to maintain order and decorum in the conduct of hearings. The mayor may rule speakers out of order and take other measures necessary to maintain order, to include the exclusion of disorderly persons from the meeting location.

**(d) Notice of Public Hearings.** Any public hearing at which a majority of the council is present shall be considered part of a regular or special meeting. Consequently, the relevant notice and related requirements of the open meetings law, as set out in Rules 9 through 12, apply to such hearings. If state law mandates additional notice for particular types of hearings, such notice must be provided together with notice of the meeting during which the hearing will take place.

**(e) Continuing Public Hearings.** The council may continue any public hearing without further advertisement to a date, time, and place certain, provided the details of the continued hearing are announced in open session.

Except for hearings conducted pursuant to paragraph (g), if a quorum of the council is not present for a properly scheduled public hearing, the hearing shall be deemed continued until the council's next regular meeting without further advertisement.

**(f) Conduct of Public Hearings.** At the time appointed for the hearing, the mayor shall call the hearing to order and proceed to allow public input in accordance with rules adopted by the council for the hearing. The mayor shall declare the hearing closed, and the council shall resume the regular order of business:

- (1) unless the council extends or continues the hearing;
- (2) when the time allotted for the hearing expires; or
- (3) when each person who wishes to speak has had an opportunity to do so.

**(g) Public Hearings by Less Than a Majority of Council Members.** Nothing in this rule prevents the council from appointing a member or members of council, or a staff member, to hold a public hearing on the council's behalf, except when state law requires that the council itself conduct the hearing.

### **Rule 37. Public Comment Periods**

**(a) Frequency of Public Comment Periods.** The council must provide at least one opportunity for public comment each month at a regular meeting, except that the council need not offer a public comment period during any month in which it does not hold a regular meeting.

**(b) Rules for Public Comment Periods.** The following rules for public comment periods shall apply:

- the maximum time allotted to each speaker shall be three (3) minutes,
- groups supporting or opposing the same positions may appoint spokespersons and yield their time to the spokespersons,
- the mayor shall have the authority to maintain order and decorum in the conduct of public comment periods and may rule speakers out of order and may take other measures necessary to maintain order including excluding disorderly persons from the meeting location.
- a maximum of ten (10) speakers per council meeting will be allowed to speak during the public comment period unless the council agrees to hear additional speakers. Further, to allow for a variety of issues to be presented to council, a maximum of six (6) speakers on any single issue or topic will be allowed at any public comment period. Speakers must sign up with the Clerk (preferably upon arriving at the meeting) and sign-up is on a first come, first served basis.
- the mayor has the authority to call the speakers in any order desired.
- comments regarding matters subject to a legally required public hearing are out of order during public comment periods and may only be made during the public hearing.

**(c) Content-Based Restrictions Generally Prohibited.** The council may not restrict speakers based on subject matter, as long as their comments do not:

1. Pertain to subjects outside the council's real or apparent jurisdiction.
2. Promote, foster, or perpetrate discrimination on the basis of race, color, religion, national origin, sex, sexual orientation, age or physical disability.
3. Advocate illegal activity or compromise safety or security of the public.

## **Part XI. Appointments and Appointed Bodies**

### **Rule 38. Appointments**

**(a) Appointments in Open Session.** The council must consider and make any appointment to another body or, in the event of a vacancy on the council, to its own membership, in open session.

**(b) Nomination and Voting Procedure.** The council shall use the following procedure to fill a vacancy in the council itself or in any other body over which it has the power of appointment. The mayor shall open the floor for nominations, whereupon council members may put forward and debate nominees. If only one nomination is made the council may vote on that as a motion

to appoint. Appointees recommended by a commission or board may be placed on the consent agenda.

**(c) Mayor.** The mayor may make nominations and vote on appointments under this rule.

**(d) Multiple Appointments.** If the council is filling more than one vacancy, each member shall have as many votes in each balloting as there are slots to be filled, and the votes of a majority of the total number of members voting shall be required for each appointment. No member may cast more than one vote for the same candidate for the same vacancy during a single balloting.

**(e) Duty to Vote.** It is the duty of each member to vote for as many appointees as there are appointments to be made, but failure to do so shall not invalidate a member's ballot.

**(f) Vote by Written Ballot.** The council may vote on proposed appointments by written ballot in accordance with Rule 29.

### **Rule 39. Committees and Boards**

**(a) Establishment and Appointment.** The council may establish temporary and standing committees, boards, and other bodies to help carry on the work of town government. Unless otherwise provided by law or the council, the power of appointment to such bodies lies with the council.

**(b) Open Meetings Law.** The requirements of the open meetings law apply whenever a majority of an appointed body's members gather in person or simultaneously by electronic means to discuss or conduct official business. They do not apply to meetings solely among the town's professional staff.

**(c) Procedural Rules.** The council may prescribe the procedures by which the city's appointed bodies operate, subject to any statutory provisions applicable to particular bodies. In the absence of rules adopted by the council, an appointed body may promulgate its own procedural rules, so long as they are in keeping with any relevant statutory provisions and generally accepted principles of parliamentary procedure.

## **Part XII. Miscellaneous**

### **Rule 40. Amendment of the Rules**

These rules may be amended at any regular meeting or at any properly called special meeting for which amendment of the rules is one of the meeting's stated purposes. Any amendment to these rules must be consistent with the town charter, any relevant statutes, and generally accepted principles of parliamentary procedure. To be adopted, a motion to amend these rules must be approved by a majority of the council's members (including the mayor), excluding vacant seats.

### **Rule 41. Reference to Robert's Rules of Order Newly Revised**

The council shall refer to *Robert's Rules of Order Newly Revised* for guidance when confronted with a procedural issue not covered by these rules or state law. Having consulted *Robert's*, the mayor shall make a ruling on the issue subject to appeal to the council under Rule 31, Motion 1.



**ORDINANCE #3081**  
**AMENDING THE TOWN'S CODE OF ORDINANCES CHAPTER 96 –**  
**SOLID WASTE, RECYCLING AND YARD WASTE**

**BE IT ORDAINED** by the Town Council of the Town of Southern Pines, North Carolina, in regular session assembled at the September 24, 2024, Work Session that the Town's Code of Ordinances are amended as follows:

1. Amend the Code of Ordinances by deleting the current Chapter 96 in its entirety:
2. Adopt and replace as Chapter 96 "Attachment A" in its entirety.

Adopted this 24 day of September 2024.

I certify that this ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting of September 24, 2024 as shown in the minutes of the Town Council for that date.

---

Elizabeth Robertson, Town Clerk

**ORDINANCE #3081  
ATTACHMENT A**

**CHAPTER 96: SOLID WASTE**

**Section**

**General Provisions**

96.001 Definitions

**Garbage**

96.015 Solid waste not collected by Town

96.016 Garbage receptacles required

96.017 Required preparation for garbage collection by Town

96.018 Garbage requiring special preparation

96.019 Garbage to be removed promptly from building or premises

96.020 Use of public receptacles

**Recycling**

96.035 Recycling center

96.036 Recycling center use

96.037 Items collected for recycling

96.038 Placing solid waste in recycling containers prohibited

96.039 Residential curbside recycling

96.040 Recycling at multi-family complexes

96.041 Recycling at commercial establishments

**Yard Waste**

96.055 Yard waste collection

**Bulky Items and White Goods**

96.070 Bulky items and white goods collection

96.999 Penalty

## GENERAL PROVISIONS

### § 96.001 DEFINITIONS.

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

**BACKDOOR.** At or near the back or side entrance to the building where garbage cans are placed so they can be conveniently and safely reached by contractor's employees for collection. The location of the backdoor collection shall be no more than 200 feet from the street or nearest path traveled by the contractor's collection vehicle.

**BAG or BAGS.** Customer supplied sacks designed to store MSW with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a bag and its contents shall not exceed 40 pounds.

**BULKY WASTE.** Household furniture, mattresses, bedding, plumbing fixture, ceramics and such items too large to place in garbage cans but not including white goods, yard waste or construction or demolition materials.

**CONSTRUCTION OR DEMOLITION DEBRIS (C AND D).** Solid waste that is the direct byproduct of construction, remodeling, repair or demolition operations performed by the resident or owner on buildings or other structures.

**CONTRACT ADMINISTRATOR.** That person, or his or her designee, designated by the Town to monitor and administer the provisions of the contract.

**CURBSIDE.** That 5 feet portion of the right-of-way immediately adjacent to the paved or traveled roadway of a public street and on private roadways set aside for public use and delivery of services.

**DEHNR.** The Department of Environmental Health and Natural Resources or any successor department or agency performing the same or similar duties for the state.

**DISPOSAL SITE.** A facility for disposal of municipal solid waste duly of the state and federal regulation promulgated as Subtitle D Landfill Facilities.

**DUMPSTER.** A metal or plastic container of not less than 4 cubic yards used to contain solid waste and serviced using a front-loading truck.

**ENVIRONMENTAL LAW.** Any federal, state, county, or local statute, law, regulation, rule, ordinance, code, directive, policy, license or permit, or any agreement imposing liability or standards of conduct or responsibility concerning or otherwise relating to environmental or health and safety matters, as amended from time to time and all as now or at any time hereafter may be in effect.

**EXCLUDED WASTE.** Any waste excluded by any applicable environmental law or excluded by any of the terms and conditions of any permits, licenses or approvals. This term shall also include other waste material (excluding solid waste) which poses an unreasonable risk or danger to the operation of safety of the company or the environment due to the chemical or physical characteristics of the waste.

**HAZARDOUS WASTE.** All materials or substances defined or characterized as hazardous waste by the U.S. Environmental Protection Agency, the North Carolina Department of Environment, Health and Natural Resources, or any other agency pursuant to any environmental law and all current and future amendments thereto, and all regulation promulgated thereunder.

**INFECTIOUS WASTE.** Solid waste capable of producing an infectious disease. The types of waste designated as infectious are: microbiological waste, pathological waste, blood products and sharps.

**MEDICAL WASTE.** Any solid waste which is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, but does not include any hazardous waste as defined in 40 C.F.R. § 261.4.

**MIXED WASTE.** Waste, excluding recyclable material, but including combinations of yard waste, bulky items, white goods, construction and demolition waste which is placed at the curbside location in such a manner that is comingled together. Waste not prepared in accordance with this chapter.

**MSW CART(S).** Roll-out containers provided by the contractor of 95 gallon capacity made of plastic or like material on wheels and so constructed that it can be handled (dumped) by the contractor's equipment used for collection.

**MULTI-FAMILY UNIT.** Any apartment complex, condominium complex, townhome complex and mobile home park having 10 or more units. Complexes receiving hand collection service as of June 30, 1998 shall not be required to utilize a dumpster(s).

**MUNICIPAL SOLID WASTE.** Any solid waste, putrescible animal and plant material resulting from the handling, preparation, processing, consumption of food, including animal and vegetable matter with a minimum amount of liquid necessarily incident thereto (garbage) and other non-putrescible waste materials (refuse) resulting and generating from the day to day operation of a service location which may be disposed of in a sanitary landfill. MSW does not include special waste, excluded waste, yard waste, C and D waste, hazardous waste, sludge, mining, agricultural, infectious or medical waste except matter included in any other definition.

**PUBLIC RECEPTACLE.** A container placed by the Town on a street, street right-of-way or Town owned property for the convenience of the public who use the streets so that they may deposit items of garbage therein rather than litter the streets or property of the Town.

**PUBLIC STREET.** One which is open to and used by the public.

**RECYCLABLE MATERIAL.** A material that has been recovered or diverted from the non-hazardous waste stream for purposes of reuse, recycling, or reclamation, a substantial portion of which is consistently used in the manufacture of products that may otherwise be produced using raw or virgin materials, including newsprint, magazines, aluminum beverage cans, steel cans, glass, HDPE and PET plastic bottles number 1 through number 7, and household paper products, including junk mail, envelopes, cereal boxes, cardboard, and telephone books.

**RECYCLE CART.** Roll-out containers provided by the contractor of 95 gallon capacity made of plastic or like material on wheels and so constructed that it can be handled (dumped) by the contractor's equipment used for collection of recyclables.

**SEPTAGE.** Solid waste that is a fluid mixture of untreated and partially treated sewage solids, liquids and sludge of human or domestic origin.

**SINGLE FAMILY RESIDENTIAL UNIT.** A residential location within the service area of the Town consisting of no more than 10 dwelling units unless otherwise authorized by the Town Manager, or receiving solid waste collection services in accordance with this chapter.

**SLUDGE.** Any solid, semi-solid or liquid waste generated from a municipal, commercial, institutional or industrial waste-water treatment plant, water supply treatment plant or air pollution control facility, or any other waste having similar characteristics and effects.

**SMALL COMMERCIAL ESTABLISHMENT.** Any commercial entity approved by the Town Manager or his designee to receive solid waste collection service within the service area of the Town in accordance with this chapter.

**SPECIAL WASTE.** Any waste which requires special or exceptional handling or requires approval from Department of Health and Natural Resources (DEHNR) for disposal, including without limitation any materials other than that which is typically found in household,

commercial or municipal refuse, industrial waste, medical waste, ashes, sludge, residue from incineration, tires and asbestos. This term excludes nuclear and hazardous waste.

**TOWN.** The Town or a person, firm, or corporation, which, by contractual arrangement with the Town, provides municipal solid waste collection services for residences and small commercial establishments.

**WHITE GOODS.** Inoperative or discarded refrigerators, ranges, water heaters, freezers, washers, dryers and other similar domestic appliances or parts thereof resulting from the normal maintenance of a service location.

**YARD WASTE.** Vegetative matter resulting from a resident's normal landscaping maintenance of service locations, such as leaves, grass, trimmings, twigs, shrubbery, plant bedding, limbs, pine cones, Christmas trees and the like at a service location. The town or our designated contractor shall dispose of all yard waste at an approved yard waste disposal site.

(1989 Code, § 96.01) (Ord. passed 12-8-1953; Am. Ord. 775, passed 9-8-1998; Am. Ord. 1506, passed 6-11-2013)

## GARBAGE

### § 96.015 SOLID WASTE NOT COLLECTED BY TOWN.

(A) Unless otherwise provided in this chapter, the Town will not collect medical waste, hazardous waste, human and animal waste, used oil and dead animals weighing greater than 10 pounds. No person shall place any of the aforementioned items in any container or receptacle intended for collection by the Town.

(B) The removal of building materials stumps, logs, and materials resulting from the clearing of vacant land shall be the responsibility of the owner of the property or his or her contractor, builder, or other agent.

(1989 Code, § 96.10) (Ord. 775, passed 9-8-1998; Am. Ord. 1506, passed 6-11-2013)

### § 96.016 GARBAGE RECEPTACLES REQUIRED.

(A) The occupant of every building, premises, or place where garbage does or may exist, except as otherwise provided in this chapter, shall be provided a town owned garbage can by either the town or the town's vendor, except as otherwise provided in this chapter. The can's size, handles, lid, wheels and construction will be coordinated with the town's solid waste vendor so that garbage can be conveniently collected by the vendor. However, the holding capacity shall not exceed 95 gallons and have handles and wheels to allow for occupants and residents to be able to conveniently move the can to and from the curb. Municipal solid waste will be placed in receptacles provided by occupant or by containers provided by the Town.

(B) The Town will provide curbside collection of municipal solid waste (MSW) for residential occupancies once a week. MSW carts must be placed curbside or no more than five feet (5) from the street or alley. Multi-family units may be serviced at the curbside, alley, or corral.

Residential backdoor or side door collection can be provided where there is no one physically able to place one (1) 95-gallon rollout container curbside. Customers must establish eligibility to receive this service by completing the town's Medical Exemption Form with a physician's statement of their physical limitations. They must also assert that no one resides in the household that is capable of placing the cart curbside.

(C) Any commercial ~~or~~ property, tax exempt, non-profit establishment, including residential, which generates more than 190 gallons of garbage weekly shall provide itself with a dumpster or other appropriate garbage receptacle. Garbage collection service for the establishments shall not be provided by the Town.

(D) Any apartment complex, condominium complex, townhomes, and or mobile home park shall provide itself with an appropriately sized dumpster or dumpsters for garbage collection. For the purpose of this section, a complex shall be defined as any development having 10 or more units. Notwithstanding the foregoing, complexes receiving hand collection service as of June 30, 1998 shall not be required to comply with the provisions of this division (D). The Town will provide collection service for all complexes mentioned in this division (D).

(E) All garbage receptacles shall be kept reasonably clean by the use of effective cleaners and disinfectants.

(1989 Code, § 96.11) (Ord. 775, passed 9-8-1998; Am. Ord. 1506, passed 6-11-2013) Penalty, see § 96.999

#### § 96.017 REQUIRED PREPARATION FOR GARBAGE COLLECTION BY TOWN.

(A) Garbage shall be prepared in accordance with the provisions of this chapter. In order to comply with the preparation requirements, no person shall place in any garbage receptacle to be collected by the Town any of the following:

- (1) White goods;
- (2) Bulky items;
- (3) C and D waste;
- (4) Special waste;
- (5) Hazardous waste;
- (6) Yard waste;
- (7) Excluded waste;
- (8) Infectious or medical waste; or
- (9) Dead animals.

(B) Residential garbage shall be wrapped, bagged or enclosed in paper or plastic material. All excess liquid shall be drained before the garbage is placed in a container.

(C) Dead animals less than 10 pounds shall be collected on a call basis. Placement for collection shall be within 10 feet of the traveled portion of the street and shall be placed no earlier than 24 hours before the scheduled pickup time.

(1989 Code, § 96.12) (Ord. 775, passed 9-8-1998; Am. Ord. 1506, passed 6-11-2013) Penalty, see § 96.999

#### § 96.018 GARBAGE REQUIRING SPECIAL PREPARATION.

(A) No person shall dispose of or discard any hypodermic syringe, needle, or any instrument or device for making hypodermic injections before first breaking, disassembling,

destroying or otherwise rendering it inoperable and incapable of reuse. In addition, the hypodermic syringe, needle, instrument or device shall be further disposed of by wrapping or securing same in a container having an impenetrable surface so as to avoid the possibility of causing injury to the collection personnel.

(B) No person shall dispose of or discard any dialysis fluid bag unless it is first secured in a leak-proof container so as to avoid the possibility of exposing the contents to the collection personnel.

(C) No person shall dispose of or discard any dangerous trash items such as broken glass, light bulbs, sharp pieces of metal, fluorescent tubes and television tubes unless it is securely wrapped to prevent injury to the collection personnel. Merely placing these items in paper or plastic bags shall not be considered adequate protection.

(D) A violation of this section is subject to the penalty provided in § 10.99(A).

(1989 Code, § 96.13) (Ord. 775, passed 9-8-1998; Am. Ord. 1506, passed 6-11-2013; Am. Ord. 1953, passed 11-9-2021) Penalty, see § 96.999

#### § 96.019 GARBAGE TO BE REMOVED PROMPTLY FROM BUILDING OR PREMISES.

No garbage that has become decayed or that shall otherwise be a menace to health or cleanliness shall be allowed to remain in any dwelling house, hotel, boardinghouse, café, restaurant, lunch stand, fruit stand, meat market, store, or other building, on any premises, for a longer time than shall be reasonably necessary to remove and deposit it in a can provided in accordance with this chapter.

(1989 Code, § 96.14) (Ord. passed 12-8-1953; Am. Ord. 775, passed 9-8-1998; Am. Ord. 1506, passed 6-11-2013) Penalty, see § 96.999

#### § 96.020 USE OF PUBLIC RECEPTACLES.

(A) It is the declared policy of the Town that public receptacles are ~~there~~ for the convenience of the public who use the streets parks, facilities and sidewalks so that they may deposit items of garbage therein rather than litter public grounds ~~the streets of the Town~~. The public receptacles are not for the purpose of dumping large quantities of garbage.

(B) It shall be unlawful for any person residing outside the corporate limits of the Town to bring quantities of garbage, accumulated outside of the Town and deposit them in any receptacle to be collected by the Town along the streets or elsewhere within the corporate limits of the Town.

(1989 Code, § 96.15) (Ord. passed 4-13-1965; Am. Ord. 775, passed 9-8-1998; Am. Ord. 1506, passed 6-11-2013) Penalty, see § 96.999

### RECYCLING

#### § 96.037 ITEMS COLLECTED FOR RECYCLING.

The Town's collection of recyclable materials may change from time to time based on market conditions.

(Ord. 1506, passed 6-11-2013)

#### § 96.038 PLACING SOLID WASTE IN RECYCLING CONTAINERS PROHIBITED.

No person shall put, place, or deposit any solid waste except those items designated by the Town Manager of their designee as recyclable materials in recycling containers and carts furnished by the Town. The solid waste materials shall be accumulated and placed in receptacles and at locations as required in this chapter.

(1989 Code, § 96.23) (Ord. 775, passed 9-8-1998; Am. Ord. 1303, passed 9-9-2008; Am. Ord. 1506, passed 6-11-2013) Penalty, see § 96.999

#### § 96.039 RESIDENTIAL CURBSIDE RECYCLING.

The Town will provide bi-weekly recycling collection based on a subscription “opt-in” service for residential, commercial, and multi-family occupancies that want to participate in a recycling service. The recycling fee will be established by the Town Council annually. Recyclable materials shall be placed in recycling containers provided by the Town. The recycling containers must be placed curbside or no more than five feet (5) from the street or alley by 7:00 a.m. on the scheduled collection day.

(Ord. 1303, passed 9-9-2008; Am. Ord. 1506, passed 6-11-2013)

#### § 96.040 RECYCLING AT MULTI-FAMILY COMPLEXES.

The Town will provide bi-weekly recycling collection based on a subscription “opt-in” service for residential, commercial, and multi-family occupancies that want to participate in a recycling service. The recycling fee will be established by the Town Council annually. Multi-family complexes which receive municipal solid waste collection service by the use of dumpsters and other multi-family complexes as deemed appropriate by the Town Manager or their designee will be provided with 95-gallon carts or other appropriate containers for storage of recyclable materials. The carts shall be placed at locations as agreed upon by the manager of such complexes for the convenience of the residents and the Town.

(Ord. 1303, passed 9-9-2008; Am. Ord. 1506, passed 6-11-2013)

#### § 96.041 RECYCLING AT COMMERCIAL ESTABLISHMENTS.

The Town will provide bi-weekly recycling collection based on a subscription “opt-in” service for residential, commercial, and multi-family occupancies that want to participate in a recycling service. The recycling fee will be established by the Town Council annually. Each commercial establishment will be provided with one recycling carts by the Town an additional cart can be rented if the commercial occupant deems it necessary. The carts shall be placed curbside or at other locations approved by the by 7:00 a.m. on the scheduled collection day.

(Ord. 1303, passed 9-9-2008; Am. Ord. 1506, passed 6-11-2013)

#### YARD WASTE

#### § 96.055 YARD WASTE COLLECTION.

(A) Shrubbery trimmings, tree trimmings, lawn clippings and yard rakings shall only be collected when placed at the curbside as provided in this section. These materials shall be placed by the occupant behind the curb in the grass strip between the street and the sidewalk where the strips are available, or they shall be placed immediately adjacent to that portion of the street right-of-way normally used by vehicles; however, no material shall be placed under overhead powerlines, in marked parking spaces, in any street, gutter, canal, or ditch where it would prevent or divert the flow of storm water or interfere in any way with any storm drainage system or interfere with public use of any street.

(B) Tree limbs shall not be more than 6 feet in length or 4 inches in diameter, and tree limbs shall be separated from yard rakings.

(C) The Town shall not be responsible for collecting more than 3 cubic yards of yard waste from any 1 location during any 1 collection cycle. It is acceptable if multiple residents choose to share a common collection location as long as access requirements are met; however, no more than 3 cubic yards of yard waste will be collected per resident during any 1 collection cycle.

(D) Yard Waste Collection is not intended for the disposal of products from land clearing. No material such as trees, shrubbery, dirt, or underbrush resulting from the clearing of vacant land will be picked up by the Town or agents of the Town, and may not be placed curbside.

(E) Yard waste shall only be collected from single family residential establishments.

(F) Residents who utilize a landscaper or yard maintenance service to maintain their property are allowed to place yard waste from the contracted property curbside for pick-up by the town. Yard waste from commercial properties, properties outside the municipal limits, or land clearing are prohibited.

(1989 Code, § 96.30) (Ord. passed 2-10-1976; Am. Ord. 775, passed 9-8-1998; Am. Ord. 1506, passed 6-11-2013) Penalty, see § 96.999

## BULKY ITEMS AND WHITE GOODS

### § 96.070 BULKY ITEMS AND WHITE GOODS COLLECTION.

(A) Bulky items and white goods will be collected once per week from single family residential units only. Placement for collection shall be curbside and shall be no earlier than 24 hours before the scheduled pick-up time.

(B) Used tires will be collected along with other bulky items. Only tires dismounted from rims will be collected. A maximum of 4 tires will be collected from any 1 location during any 1 collection cycle.

(C) Bulky items and white goods generated from commercial establishments will not be collected.

(D) The Town shall not be responsible for collecting more than 3 cubic yards of bulky items and white goods from any 1 location during any 1 collection cycle.

(E) Items that are banned by the landfill will not be picked-up i.e. asbestos, construction debris, electronics, hazardous materials, oil, etc.

(1989 Code, § 96.40) (Ord. 775, passed 9-8-1998; Am. Ord. 1506, passed 6-11-2013)

§ 96.999 PENALTY.

Unless otherwise specified in this chapter, any person who violates any provision of this chapter may receive a civil penalty of \$50 per violation per day for so long as the violation exists. Each day on which a violation occurs or continues shall constitute a separate and distinct violation. The Assistant Town Manager or his/her designee shall notify either by telephone or letter the person, firm, or corporation in violation, describing the offense, the section violated, the corrective action necessary, and a reasonable time period for compliance. If the violation is not corrected within the required time, the Assistant Town Manager or his/her designee shall have the authority to issue a civil citation imposing the civil penalty of \$50 for each separate offense. If corrective action is not taken or the penalty is not paid within 10 days, the Town Manager shall forward the matter to the Town Attorney for further legal action as allowed by this chapter and state law.

(1989 Code, § 96.99) (Ord. passed 5-12-1987; Am. Ord. 775, passed 9-8-1998; Am. Ord. 1506, passed 6-11-2013; Am. Ord. 1953, passed 11-9-2021)

DRAFT

## CHAPTER 96: SOLID WASTE

### Section

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##### 96.001 Definitions

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##### 96.015 Solid waste not collected by Town

##### 96.016 Garbage receptacles required

##### 96.017 Required preparation for garbage collection by Town

##### 96.018 Garbage requiring special preparation

##### 96.019 Garbage to be removed promptly from building or premises

##### 96.020 Use of public receptacles

#### Recycling

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##### 96.036 Recycling center use

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##### 96.039 Residential curbside recycling

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##### 96.041 Recycling at commercial establishments

#### Yard Waste

##### 96.055 Yard waste collection

#### Bulky Items and White Goods

##### 96.070 Bulky items and white goods collection

##### 96.999 Penalty

#### GENERAL PROVISIONS

##### § 96.001 DEFINITIONS.

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

**BACKDOOR.** At or near the back or side entrance to the building where garbage cans are placed so they can be conveniently and safely reached by contractor's employees for collection. The location of the backdoor collection shall be no more than 200 feet from the street or nearest path traveled by the contractor's collection vehicle.

**BAG or BAGS.** Customer supplied sacks designed to store MSW with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a bag and its contents shall not exceed 40 pounds.

**BULKY WASTE.** Household furniture, mattresses, bedding, plumbing fixture, ceramics and such items too large to place in garbage cans but not including white goods, yard waste or construction or demolition materials.

**CONSTRUCTION OR DEMOLITION DEBRIS (C AND D).** Solid waste that is the direct byproduct of construction, remodeling, repair or demolition operations performed by the resident or owner on buildings or other structures.

**CONTRACT ADMINISTRATOR.** That person, or his or her designee, designated by the Town to monitor and administer the provisions of the contract.

**CURBSIDE.** That 5-6-foot portion of the right-of-way immediately adjacent to the paved or traveled roadway of a public street and on private roadways set aside for public use and delivery of services.

**DEHNR.** The Department of Environmental Health and Natural Resources or any successor department or agency performing the same or similar duties for the state.

**DISPOSAL SITE.** A facility for disposal of municipal solid waste duly of the state and federal regulation promulgated as Subtitle D Landfill Facilities.

**DUMPSTER.** A metal or plastic container of not less than 4 cubic yards used to contain solid waste and serviced using a front-loading truck.

**ENVIRONMENTAL LAW.** Any federal, state, county, or local statute, law, regulation, rule, ordinance, code, directive, policy, license or permit, or any agreement imposing liability or standards of conduct or responsibility concerning or otherwise relating to environmental or health and safety matters, as amended from time to time and all as now or at any time hereafter may be in effect.

**EXCLUDED WASTE.** Any waste excluded by any applicable environmental law or excluded by any of the terms and conditions of any permits, licenses or approvals. This term shall also include other waste material (excluding solid waste) which poses an unreasonable risk or danger to the operation of safety of the company or the environment due to the chemical or physical characteristics of the waste.

**HAZARDOUS WASTE.** All materials or substances defined or characterized as hazardous waste by the U.S. Environmental Protection Agency, the North Carolina Department of

Environment, Health and Natural Resources, or any other agency pursuant to any environmental law and all current and future amendments thereto, and all regulation promulgated thereunder.

**INFECTIOUS WASTE.** Solid waste capable of producing an infectious disease. The types of waste designated as infectious are: microbiological waste, pathological waste, blood products and sharps.

**MEDICAL WASTE.** Any solid waste which is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, but does not include any hazardous waste as defined in 40 C.F.R. § 261.4.

**MIXED WASTE.** Waste, excluding recyclable material, but including combinations of yard waste, bulky items, white goods, construction and demolition waste which is placed at the curbside location in such a manner that is comingled together. Waste not prepared in accordance with this chapter.

**MSW CART(S).** Roll-out containers provided by the contractor of 95 gallon capacity made of plastic or like material on wheels and so constructed that it can be handled (dumped) by the contractor's equipment used for collection.

**MULTI-FAMILY UNIT.** Any apartment complex, condominium complex, townhome complex and mobile home park having 10 or more units. Complexes receiving hand collection service as of June 30, 1998 shall not be required to utilize a dumpster(s).

**Commented [MC1]:** Discuss the 6/30/1998 Multi-Family Policy Verses Dumpsters, how many are still being picked up by hand?

**MUNICIPAL SOLID WASTE.** Any solid waste, putrescible animal and plant material resulting from the handling, preparation, processing, consumption of food, including animal and vegetable matter with a minimum amount of liquid necessarily incident thereto (garbage) and other non-putrescible waste materials (refuse) resulting and generating from the day to day operation of a service location which may be disposed of in a sanitary landfill. MSW does not include special waste, excluded waste, yard waste, C and D waste, hazardous waste, sludge, mining, agricultural, infectious or medical waste except matter included in any other definition.

**PUBLIC RECEPTACLE.** A container placed by the Town on a street, street right-of-way or Town owned property for the convenience of the public who use the streets so that they may deposit items of garbage therein rather than litter the streets or property of the Town.

**PUBLIC STREET.** One which is open to and used by the public.

**RECYCLABLE MATERIAL.** A material that has been recovered or diverted from the non-hazardous waste stream for purposes of reuse, recycling, or reclamation, a substantial portion of which is consistently used in the manufacture of products that may otherwise be produced using raw or virgin materials, including newsprint, magazines, aluminum beverage cans, steel cans, glass, HDPE and PET plastic bottles number 1 through number 7, and household paper products, including junk mail, envelopes, cereal boxes, cardboard, and telephone books.

—RECYCLE BIN. An 18 gallon plastic container supplied by contractor for collection of recyclables. The bins will have the Town seal, the contractor's seal, the contractor's phone number and the words "Recyclable Material" visible on the outside of bin.

RECYCLE CART. Roll-out containers provided by the contractor of 95 gallon capacity made of plastic or like material on wheels and so constructed that it can be handled (dumped) by the contractor's equipment used for collection of recyclables.

SEPTAGE. Solid waste that is a fluid mixture of untreated and partially treated sewage solids, liquids and sludge of human or domestic origin.

SINGLE FAMILY RESIDENTIAL UNIT. A residential location within the service area of the Town consisting of no more than 10 dwelling units unless otherwise authorized by the Town Manager, or receiving solid waste collection services in accordance with this chapter.

SLUDGE. Any solid, semi-solid or liquid waste generated from a municipal, commercial, institutional or industrial waste-water treatment plant, water supply treatment plant or air pollution control facility, or any other waste having similar characteristics and effects.

SMALL COMMERCIAL ESTABLISHMENT. Any commercial entity approved by the ~~Public Services Director~~ Town Manager or his designee to receive solid waste collection service within the service area of the Town in accordance with this chapter.

SPECIAL WASTE. Any waste which requires special or exceptional handling or requires approval from Department of Health and Natural Resources (DEHNR) for disposal, including without limitation any materials other than that which is typically found in household, commercial or municipal refuse, industrial waste, medical waste, ashes, sludge, residue from incineration, tires and asbestos. This term excludes nuclear and hazardous waste.

TOWN. The Town or a person, firm, or corporation, which, by contractual arrangement with the Town, provides municipal solid waste collection services for residences and small commercial establishments.

WHITE GOODS. Inoperative or discarded refrigerators, ranges, water heaters, freezers, washers, dryers and other similar domestic appliances or parts thereof resulting from the normal maintenance of a service location.

YARD WASTE. Vegetative matter resulting from a resident's normal landscaping maintenance of service locations, such as leaves, grass, trimmings, twigs, shrubbery, plant bedding, limbs, pine cones, Christmas trees and the like at a service location. The town or our designated contractor shall dispose of all yard waste at Moore County Landfill an approved yard waste disposal site.

(1989 Code, § 96.01) (Ord. passed 12-8-1953; Am. Ord. 775, passed 9-8-1998; Am. Ord. 1506, passed 6-11-2013)

GARBAGE

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(A) Unless otherwise provided in this chapter, the Town will not collect medical waste, hazardous waste, human and animal waste, used oil and dead animals weighing greater than 10 pounds. No person shall place any of the aforementioned items in any container or receptacle intended for collection by the Town.

(B) The removal of building materials stumps, logs, and materials resulting from the clearing of vacant land shall be the responsibility of the owner of the property or his or her contractor, builder, or other agent.

(1989 Code, § 96.10) (Ord. 775, passed 9-8-1998; Am. Ord. 1506, passed 6-11-2013)

§ 96.016 GARBAGE RECEPTACLES REQUIRED.

(A) The occupant of every building, premises, or place where garbage does or may exist, except as

Otherwise provided in this chapter, shall be provided a town owned garbage can by either the town or the town's vendor, except as otherwise provided in this chapter. The can's size, handles, lid, wheels and construction will be coordinated with the town's solid waste vendor so that garbage can be conveniently collected by the vendor. However, the holding capacity shall not exceed 95 gallons and have handles and wheels to allow for occupants and residents to be able to conveniently move the can to and from the curb.

himself or herself with a garbage can made of substantial galvanized iron or other non-rusting material, in which he or she shall deposit all garbage existing at the place occupied by him or her. The can shall be provided with handles and with a tight-fitting cover made of the same materials as the can. All garbage cans shall be water tight. They shall be of a size that can be conveniently handled by the garbage collector, not to exceed in holding capacity more than 95 gallons. Municipal solid waste will be placed in receptacles provided by occupant or by containers provided by the Town.

(B) The Town will provide ~~either curbside or backdoor~~ collection of municipal solid waste (MSW) for residential occupancies once a week. MSW carts must be placed curbside or no more than five feet (5) from the street or alley. Multi-family units may be serviced at the curbside, alley, or corral.

Residential backdoor or side door collection can be provided where there is no one physically able to place one (1) 95-gallon rollout container curbside. Customers must establish eligibility to receive this service by completing the town's Medical Exemption Form with a physician's statement of their physical limitations. They must also assert that no one resides in the household that is capable of placing the cart curbside. and small commercial establishments. Backdoor collection is to be placed at or near the rear

entrance of any residence or business establishment in a place that they can be conveniently reached by the garbage collector. Access routes shall not be obstructed by steps, bicycles, motor vehicles or fences. Service will not be provided if the containers are

placed inside a garage, carport, or storage shed or when dogs or other animals interfere with collectors. The distance of the garbage cans from the nearest point traveled by the garbage truck shall not exceed 200 feet.

(C) Any commercial or property, tax exempt, non-profit establishment, including residential, which generates more than 480 190 gallons of garbage weekly shall provide itself with a dumpster or other appropriate garbage receptacle. Garbage collection service for the establishments shall not be provided by the Town.

(D) Any apartment complex, condominium complex, townhomes, and or mobile home park shall provide itself with an appropriately sized dumpster or dumpsters for garbage collection. For the purpose of this section, a complex shall be defined as any development having 10 or more units. Notwithstanding the foregoing, complexes receiving hand collection service as of June 30, 1998 shall not be required to comply with the provisions of this division (D). The Town will provide collection service for all complexes mentioned in this division (D).

(E) All garbage receptacles shall be kept reasonably clean by the use of effective cleaners and disinfectants.

(1989 Code, § 96.11) (Ord. 775, passed 9-8-1998; Am. Ord. 1506, passed 6-11-2013)  
Penalty, see § 96.999

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- (1) White goods;
- (2) Bulky items;
- (3) C and D waste;
- (4) Special waste;
- (5) Hazardous waste;
- (6) Yard waste;
- (7) Excluded waste;
- (8) Infectious or medical waste; or
- (9) Dead animals.

(B) Residential garbage shall be wrapped, bagged or enclosed in paper or plastic material. All excess liquid shall be drained before the garbage is placed in a container.

Commented [MC2]: Discussion from above.

(C) Dead animals less than 10 pounds shall be collected on a call basis. Placement for collection shall be within 10 feet of the traveled portion of the street and shall be placed no earlier than 24 hours before the scheduled pickup time.

(1989 Code, § 96.12) (Ord. 775, passed 9-8-1998; Am. Ord. 1506, passed 6-11-2013)  
Penalty, see § 96.999

#### § 96.018 GARBAGE REQUIRING SPECIAL PREPARATION.

(A) No person shall dispose of or discard any hypodermic syringe, needle, or any instrument or device for making hypodermic injections before first breaking, disassembling, destroying or otherwise rendering it inoperable and incapable of reuse. In addition, the hypodermic syringe, needle, instrument or device shall be further disposed of by wrapping or securing same in a container having an impenetrable surface so as to avoid the possibility of causing injury to the collection personnel.

(B) No person shall dispose of or discard any dialysis fluid bag unless it is first secured in a leak-proof container so as to avoid the possibility of exposing the contents to the collection personnel.

(C) No person shall dispose of or discard any dangerous trash items such as broken glass, light bulbs, sharp pieces of metal, fluorescent tubes and television tubes unless it is securely wrapped to prevent injury to the collection personnel. Merely placing these items in paper or plastic bags shall not be considered adequate protection.

(D) A violation of this section is subject to the penalty provided in § 10.99(A).

(1989 Code, § 96.13) (Ord. 775, passed 9-8-1998; Am. Ord. 1506, passed 6-11-2013; Am. Ord. 1953, passed 11-9-2021) Penalty, see § 96.999

#### § 96.019 GARBAGE TO BE REMOVED PROMPTLY FROM BUILDING OR PREMISES.

##### 96.019 GARBAGE TO BE REMOVED PROMPTLY FROM BUILDING OR PREMISES.

No garbage that has become decayed or that shall otherwise be a menace to health or cleanliness shall be allowed to remain in any dwelling house, hotel, boardinghouse, café, restaurant, lunch stand, fruit stand, meat market, store, or other building, on any premises, for a longer time than shall be reasonably necessary to remove and deposit it in a can provided in accordance with this chapter.

(1989 Code, § 96.14) (Ord. passed 12-8-1953; Am. Ord. 775, passed 9-8-1998; Am. Ord. 1506, passed 6-11-2013) Penalty, see § 96.999

#### § 96.020 USE OF PUBLIC RECEPTACLES.

(A) It is the declared policy of the Town that public receptacles are ~~there~~ for the convenience of the public who use the streets ~~parks, facilities and sidewalks~~ so that they may deposit items of garbage therein rather than litter ~~public grounds~~ ~~the streets of the Town~~. The public receptacles are not for the purpose of dumping large quantities of garbage.

(B) It shall be unlawful for any person residing outside the corporate limits of the Town to bring quantities of garbage, accumulated outside of the Town and deposit them in any receptacle to be collected by the Town along the streets or elsewhere within the corporate limits of the Town.

(1989 Code, § 96.15) (Ord. passed 4-13-1965; Am. Ord. 775, passed 9-8-1998; Am. Ord. 1506, passed 6-11-2013) Penalty, see § 96.999

#### RECYCLING

##### § 96.035 RECYCLING CENTER.

~~—The Town may provide, at its discretion, a recycling center(s) for the purpose of collection of recyclable materials.~~

~~(Ord. 1506, passed 6-11-2013)~~

##### § 96.036 RECYCLING CENTER USE.

~~—The Town recycling center(s) shall be for the use of Town residents. The recycling center shall be used during operational hours as designated by the Town.~~

~~(Ord. 1506, passed 6-11-2013)~~

##### § 96.037 ITEMS COLLECTED FOR RECYCLING.

The Town's collection of recyclable materials may change from time to time based on market conditions. ~~Containers shall be clearly labeled as to content of recyclable materials allowed.~~

(Ord. 1506, passed 6-11-2013)

##### § 96.038 PLACING SOLID WASTE IN RECYCLING CONTAINERS PROHIBITED.

No person shall put, place, or deposit any solid waste except those items designated by the ~~Town Manager of their designee~~ ~~Director of Public Services~~ as recyclable materials in recycling containers and carts furnished by the Town. The solid waste materials shall be accumulated and placed in receptacles and at locations as required in this chapter.

(1989 Code, § 96.23) (Ord. 775, passed 9-8-1998; Am. Ord. 1303, passed 9-9-2008; Am. Ord. 1506, passed 6-11-2013) Penalty, see § 96.999

#### § 96.039 RESIDENTIAL CURBSIDE RECYCLING.

The Town will provide bi-weekly recycling collection based on a subscription "opt-in" service for residential, commercial, and multi-family occupancies that want to participate in a recycling service. The recycling fee will be established by the Town Council annually. Recyclable materials shall be placed in recycling containers provided by the Town. The recycling containers shall be placed curbside containers must be placed curbside or no more than five feet (5) from the street or alley by 7:00 a.m. on the scheduled collection day.

(Ord. 1303, passed 9-9-2008; Am. Ord. 1506, passed 6-11-2013)

#### § 96.040 RECYCLING AT MULTI-FAMILY COMPLEXES.

The Town will provide bi-weekly recycling collection based on a subscription "opt-in" service for residential, commercial, and multi-family occupancies that want to participate in a recycling service. The recycling fee will be established by the Town Council annually. Multi-family complexes which receive municipal solid waste collection service by the use of dumpsters and other multi-family complexes as deemed appropriate by the Director of Public Services Town Manager or their designee will be provided with 95 gallon 95-gallon carts or other appropriate containers for storage of recyclable materials. The carts shall be placed at locations as agreed upon by the manager of such complexes for the convenience of the residents and the Town.

(Ord. 1303, passed 9-9-2008; Am. Ord. 1506, passed 6-11-2013)

**Commented [MC3]:** Lets Discuss Multi-Family Complexes, those facilities that use a Single Meter for water create a billing issue for Opt-In Recycling.

#### § 96.041 RECYCLING AT COMMERCIAL ESTABLISHMENTS.

The Town will provide bi-weekly recycling collection based on a subscription "opt-in" service for residential, commercial, and multi-family occupancies that want to participate in a recycling service. The recycling fee will be established by the Town Council annually. Each commercial establishment will be provided with one or more recycling containers or carts by the Town as deemed appropriate by the Director of Public Services an additional cart can be rented if the commercial occupant deems it necessary. The containers and carts shall be placed curbside or at other locations approved by the Director of Public Services by 7:00 a.m. on the scheduled collection day.

(Ord. 1303, passed 9-9-2008; Am. Ord. 1506, passed 6-11-2013)

## YARD WASTE

### § 96.055 YARD WASTE COLLECTION.

(A) Shrubbery trimmings, tree trimmings, lawn clippings and yard rakings shall only be collected when placed at the curbside as provided in this section. These materials shall be placed by the occupant behind the curb in the grass strip between the street and the sidewalk where the strips are available, or they shall be placed immediately adjacent to that portion of the street right-of-way normally used by vehicles; however, no material shall be placed under overhead powerlines, in marked parking spaces, in any street, gutter, canal, or ditch where it would prevent or divert the flow of storm water or interfere in any way with any storm drainage system or interfere with public use of any street.

(B) Tree limbs shall not be more than 4-feet 6 feet in length or 4 inches in diameter, and tree limbs shall be separated from yard rakings.

(C) The Town shall not be responsible for collecting more than 3 cubic yards of yard waste from any 1 location during any 1 collection cycle. It is acceptable if multiple residents choose to share a common collection location as long as access requirements are met; however, no more than 3 cubic yards of yard waste will be collected per resident during any 1 collection cycle.

(D) Yard Waste Collection is not intended for the disposal of products from land clearing. No material such as trees, shrubbery, dirt, or underbrush resulting from the clearing of vacant land will be picked up by the Town or agents of the Town, and may not be placed curbside.

(E) Yard waste shall only be collected from single family residential establishments.

(F) Residents who utilize a landscaper or yard maintenance service to maintain their property are allowed to place yard waste from the contracted property curbside for pick-up by the town. Yard waste from commercial properties, properties outside the municipal limits, or land clearing are prohibited.

(1989 Code, § 96.30) (Ord. passed 2-10-1976; Am. Ord. 775, passed 9-8-1998; Am. Ord. 1506, passed 6-11-2013) Penalty, see § 96.999

## BULKY ITEMS AND WHITE GOODS

### § 96.070 BULKY ITEMS AND WHITE GOODS COLLECTION.

(A) Bulky items and white goods will be collected once per week from single family residential units only. Placement for collection shall be curbside and shall be no earlier than 24 hours before the scheduled pick-up time.

(B) Used tires will be collected along with other bulky items. Only tires dismounted from rims will be collected. A maximum of 4 tires will be collected from any 1 location during any 1 collection cycle.

(C) Bulky items and white goods generated from commercial establishments will not be collected.

(D) The Town shall not be responsible for collecting more than 3 cubic yards of bulky items and white goods from any 1 location during any 1 collection cycle.

(E) Items that are banned by the landfill will not be picked-up i.e. asbestos, construction debris, electronics, hazardous materials, oil, etc.

(1989 Code, § 96.40) (Ord. 775, passed 9-8-1998; Am. Ord. 1506, passed 6-11-2013}

#### § 96.999 PENALTY.

Unless otherwise specified in this chapter, any person who violates any provision of this chapter may receive a civil penalty of \$50 per violation per day for so long as the violation exists. Each day on which a violation occurs or continues shall constitute a separate and distinct violation. The Assistant Town Manager or his/her designee shall notify either by telephone or letter the person, firm, or corporation in violation, describing the offense, the section violated, the corrective action necessary, and a reasonable time period for compliance. If the violation is not corrected within the required time, the Assistant Town Manager or his/her designee shall have the authority to issue a civil citation imposing the civil penalty of \$50 for each separate offense. If corrective action is not taken or the penalty is not paid within 10 days, the Town Manager shall forward the matter to the Town Attorney for further legal action as allowed by this chapter and state law.

(1989 Code, § 96.99) (Ord. passed 5-12-1987; Am. Ord. 775, passed 9-8-1998; Am. Ord. 1506, passed 6-11-2013; Am. Ord. 1953, passed 11-9-2021)