



## TOWN OF KNIGHTDALE

950 Steeple Square Court  
Knightdale, NC 27545  
KnightdaleNC.gov

### ORDINANCE #24-11-20-001 AN ORDINANCE AMENDING THE TOWN OF KNIGHTDALE CODE OF ORDINANCES

**WHEREAS**, the North Carolina General Assembly gives Town Council the authority to adopt, repeal, and replace ordinances; and

**WHEREAS**, Town staff, along with the Town Attorney, recently completed a thorough review of the Town of Knightdale Code of Ordinances; and

**WHEREAS**, the following sections of the Town of Knightdale Code of Ordinances are hereby amended to read as follows:

#### Chapter 1

##### Sec. 1.02. - Definitions.

(a) Interest means direct or indirect pecuniary or other material benefit accruing to a Town official as a result of a contract or transaction which is or may be the subject of an official act or action by or with the Town. For the purpose of this code, a Town official shall be deemed to have an interest in the affairs of:

(1) Any person in ~~their~~ ~~his~~-immediate household as defined in the following paragraph (e);

(e) Immediate household means the Town official, ~~their~~ ~~his~~-spouse, domestic partner, and all dependent children of the Town official.

##### Sec. 1.03. - Standards of conduct.

(c) No Town official shall use ~~their~~ ~~is~~-official position or the Town's facilities for ~~their~~ ~~his~~-private gain, nor shall ~~they~~ ~~he~~-appear before or represent any private person, group or interest before any department, agency, committee or board of the Town except in matters of purely civic or public concern. The provisions of this paragraph (c) are not intended to prohibit a Town official's use of parking permits and are not intended to prohibit ~~their~~ ~~his~~-speaking before neighborhood groups and other nonprofit organizations.

(d) No Town official shall use or disclose confidential information gained in the course of or by reason of ~~their~~ ~~his~~-official position for purposes of advancing:

(i) ~~Their~~ ~~His~~ financial or personal interest;

(ii) A business entity of which ~~they are~~ ~~he is~~-an owner (in part or in whole), an officer or a director;

(iii) The financial or personal interest of a member of ~~their his~~ immediate household or that of any other person; or

(iv) To the detriment to the Town when the Town is engaged in any contract negotiation, efforts preliminary to the acquisition or disposal of real or personal property, preparation for or actual litigation, and/or deliberation on land use planning or other legislative matters.

(e) Incompatible service. No Town official shall engage in, or accept private employment or render service for private interest when such employment or service is incompatible with the proper discharge of ~~their his~~ official duties or would tend to impair ~~their his~~ independence of judgment or action in the performance of ~~their his~~ official duties, unless otherwise permitted by law and unless disclosure is as provided in this code.

(f) No Town official shall directly or indirectly solicit any gift, or accept or receive any gift, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence ~~them him~~ or could reasonably be expected to influence ~~them him~~ in the performance of ~~their his~~ official duties, or was intended as a reward for an official action on ~~their his~~ part. Legitimate political contributions shall not be considered as gifts under the provisions of this paragraph (f). This section is not intended to prohibit customary gifts or favors between Town officials and their friends and/or relatives of their spouses, minor children, or members of their household where it is clear that it is that relationship rather than the business of the individual concerned which is the motivating factor for the gift or favor. Furthermore, this section does not prohibit food or drink consumed at a public function at which the public official is participating as a guest speaker or panel member, or a function to which the entire membership of the Town Council and/or Advisory Board are invited.

#### **Sec. 1.04. - General disclosure.**

The Mayor, members of the Town Council, members of the Land Use Review Board, ~~members of the Board of Adjustment~~, the Town Manager, Assistant Town Manager, department heads, and Town Attorney shall file with the Town Clerk on the first day of March of each year a statement containing the following information:

(a) The identity, by name and address, of any business entity of which ~~they he~~ or any member of ~~their his~~ immediate household is an owner (as defined in subsections 1.02(a)—(e)). Additionally, the Town official and spouse shall give the name of their employer or, if self-employed, state the nature of their work.

(b) The identity, by location and address, of all real property located in Wake County owned by the Town official or any member of ~~their his~~ immediate household, including an option to purchase, or a lease for ten (10) years or more other than ~~their his~~ personal residence.

The statements required by this action shall be filed on a form prescribed by the Town Clerk and are public records available for inspection and copying by any person during normal business hours. The Town Clerk is authorized to establish and charge reasonable fees for the copying of statements.

#### **Sec. 1.05. - Investigations.**

(a) The Town Council may direct the Town Attorney to investigate any apparent violation of this Code as it applies to the Mayor, member of the Town Council, Town Manager, Town Clerk, and any Advisory Board or Committee members, and to report the findings of ~~their~~ his investigation to the Town Council.

(b) The Town Manager may direct the Town Attorney to investigate any apparent violation of this code as it applies to the Assistant Town Managers and department heads and to report the findings of ~~their~~ his investigation to the Town Manager.

(c) The Town Council may direct the Town Manager to investigate any apparent violation of this code by the Town Attorney, and to report the findings of ~~their~~ his investigation to the Town Council.

#### **Sec. 1.06. - Sanctions.**

(a) If the Town Manager, after the receipt of an investigation by the Town Attorney, has cause to believe a violation has occurred, ~~they~~ he shall schedule a hearing on the matter. The Town official who is charged with the violation shall have the right to present evidence, cross-examine witnesses, including the complainant or complainants, and be represented by counsel at the hearing. If, after such hearing and review of all the evidence, the Town Manager finds that a violation of this chapter has occurred, ~~they~~ he shall take whatever lawful disciplinary action ~~they deem~~ he deems appropriate, including, but not limited to, reprimand, suspension, demotion or termination of service within thirty (30) days.

~~(c) If the Town Council, after receipt of an investigation by the Town Manager has cause to believe an ethics violation has occurred by the Town Attorney, the Town Council shall schedule a hearing on this matter. The Town Attorney who is charged with the violation shall have the right to present evidence, cross-examine witnesses, including the complainant or complainants, and be represented by counsel at the hearing. If, upon the conclusion of the hearing, at least three-fourths (3/4) of the members of the Council vote to find a violation has occurred, the Council may adopt a resolution of censure which shall be placed as a matter of record in the minutes of an official Council meeting. Furthermore, the Council may, by vote of at least three-fourths (3/4) of the members of the Council, report the Town Attorney's ethics violation, including the circumstances, the result of the hearing and the censure, to the North Carolina State Bar. The Council must take action within thirty (30) days from the date of the hearing~~

#### **Sec. 1.07. - Advisory opinions in writing.**

When any Town official has a doubt as to the applicability of any provision of this code to a particular situation, or as to the definition of terms used herein, ~~they~~ he may apply in writing to the Town Attorney for a written advisory opinion. The Town official shall have the opportunity to present ~~their~~ his interpretation of the facts at issue and the applicability of provisions of the code before such advisory opinion is made.

#### **Sec. 1.08. - Ethics education. ~~[Ethics education].~~**

The Mayor and Town Council members shall receive a minimum of two (2) ~~elck~~ hours of ethics education covering this code and other applicable standards of conduct within twelve (12) months after initial election or appointment and again within twelve (12) months after each subsequent election or

appointment. The education shall be provided by a qualified source chosen by the Council, and the Town shall maintain a record verifying each member's participation.

## Chapter 10

### Sec. 10.02. - Definitions.

~~Or and and. "Or" may be read "and" and "and" may be read "or" if the sense requires it.~~

### Sec. 10.03. - Rules of construction.

~~(b) Gender. Words importing the masculine gender shall include the feminine and neuter.~~

### Sec. 10.99. - Penalty.

(a) ~~In accordance with G.S. 160D-803, violation of any provision hereof shall be a misdemeanor as provided in G.S. 14-4, punishable on conviction by a fine or by imprisonment.~~ **In accordance with NCGS Section 160A-175, each ordinance contained herein will include a specification if it may be enforced as a misdemeanor.** An ordinance may provide by express statement that the maximum fine or term of imprisonment to be imposed for its violation shall be some figure or number of days less than the maximum penalties prescribed by G.S. 14-4.

(b) An ordinance contained herein may provide for its enforcement by other remedies, as authorized in G.S. **160A-175** ~~160D-803~~, including the imposition of civil fines, the ordering of specific equitable relief, including injunctions, or a combination of remedies. In addition, any ordinance contained herein may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.

(c) An ordinance may provide, when appropriate, that each day's continuing violation shall be a separate and distinct offense.

## Title II

## Chapter 20

### Sec. 20.03. - Mayor; duties.

The Mayor shall be the **official head of the Town for the service of civil process and for all ceremonial purposes** ~~chief executive officer of the Town~~, and as such, shall perform the following duties:

(a) ~~Keep himself/herself~~ Keep informed as to the Town's business.

(e) Make recommendations to the Council concerning the affairs of the Town, as **deemed** ~~he/she deems~~ necessary.

### Sec. 20.15. - Regular meetings.

The **Council** ~~council~~ shall hold a regular meeting on the first Monday and third Wednesday of each month, except that if a regular meeting day is a legal holiday, the meeting shall be held on the next business day. **The Council will also hold a Joint Public Hearing with the Land Use Review Board on the third Thursday of each month if needed.** The meetings shall be held at 7:00 p.m. at the Knightdale

Town Hall and a copy of the **Council's** ~~council's~~ current meeting schedule shall be filed with the **Town Clerk** ~~town clerk~~.

**Sec. 20.16. - Special, emergency and adjourned meetings.**

(a) Special meetings. The **Mayor** ~~mayor~~, the **Mayor Pro Tempore** ~~mayor pro tempore~~, or any two members of the **Council** ~~council~~ may at any time call a special council meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. At least forty-eight (48) hours before a special meeting called in this matter, written notice of the meeting stating its time and place and the subjects to be considered shall be:

- (1) Delivered to the **Mayor** ~~mayor~~ and each **Council** ~~council~~ member;
- (2) Posted on the **Council's** ~~council's~~ principal bulletin board, or if none, at the door of the **Council's** ~~council's~~ usual meeting room; and
- (3) Delivered to each media outlet and person who has filed a written request for notice with the **Town Clerk** ~~town clerk~~.

Only those items of business specified in the notice may be transacted at a special meeting called in this manner, unless all members are present or have signed a written waiver of notice.

A special meeting may also be called or scheduled by vote of the **Council** ~~council~~ in open session during another duly called meeting. The motion or resolution calling or scheduling the special meeting shall specify its time, place and purpose. At least forty-eight (48) hours before a special meeting called in this manner, notice of the time, place and purpose of the meeting shall be:

- (1) Posted on the **Council's** ~~council's~~ principal bulletin board, or if none, at the door of the **Council's** ~~council's~~ usual meeting room; and
- (2) **Delivered to each media outlet and person who has filed a written request for notice with the Town Clerk.** ~~Delivered to each newspaper, wire service, radio station, television station and person who has filed a written request for notice with the town clerk.~~

Such notice shall also be delivered at least forty-eight (48) hours before the meeting to each **Council Member** ~~council member~~ not present at the meeting at which the special meeting was called or scheduled, and to the **Mayor** ~~mayor~~ if **the Mayor was** ~~he or she was~~ not present at that meeting.

(b) Emergency meetings. The **Mayor** ~~mayor~~, the **Mayor Pro Tempore** ~~mayor pro tempore~~, or any two members of the **Council** ~~council~~ may at any time call an emergency council meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. The notice shall be delivered to the **Mayor** ~~mayor~~ and each **Council** ~~council~~ member at least six (6) hours before the meeting. Notice of the meeting shall be given to each media outlet that has filed a written emergency meeting notice request with the **Town Clerk** ~~town clerk~~. This notice shall be given either by telephone or by the same method used to notify the **Mayor** ~~mayor~~ and the **Council** ~~council~~ members.

Emergency meetings shall only be called because of generally unexpected circumstances that require immediate consideration by the **Town Council** ~~city council~~. Only business connected with the emergency may be considered at an emergency meeting.

**Sec. 20.17. - Organizational meeting.**

On the date and at the time of the first regular meeting in December following a general election in which **Council** ~~council~~-members are elected, or at an earlier date, if any, set by the incumbent **Council** ~~council~~, the newly elected members shall take and subscribe the oath of office as the first order of business. As the second order of business, the **Council** ~~council~~ shall elect a **Mayor Pro Tempore** ~~mayor pro tempore~~. This organizational meeting shall not be held before the municipal election results are officially determined, certified and published in accordance with N.C. General Statutes.

**Sec. 20.33. - Agenda.**

(a) The **Town Clerk** ~~town clerk~~ or chief administrative officer shall prepare a proposed agenda for each meeting. ~~A request to have an item of business placed on the agenda must be received at least four (4) working days before the meeting. Any council member may have an item placed on the proposed agenda so long as the request is timely and is consistent with the notice requirements of section 20.31.~~ A copy of all proposed ordinances shall be attached to the proposed agenda. An agenda package shall be prepared that includes, for each item of business placed on the proposed agenda, as much background information on the subject as is available and feasible to reproduce. Each **Council** ~~council~~-member shall receive a copy of the proposed agenda and the agenda package and they shall be available for public inspection and distribution or copying when they are distributed to the **Council** ~~council~~-members.

(b) As its first order of business at each meeting, the **Council** ~~council~~ shall discuss and revise the proposed agenda and adopt an agenda for the meeting. The **Council** ~~council~~ may by majority vote add items to or subtract items from the proposed agenda, except that:

(1) The **Council** ~~council~~ may not add items to the proposed agenda stated in the notice of a special meeting called by the **Mayor** ~~mayor~~, **Mayor Pro Tempore** ~~mayor pro tempore~~, or two (2) **Council** ~~council~~ members, unless all members are present, or those who are absent sign a written waiver of notice; and

(c) The **Council** ~~council~~ shall not deliberate, vote or otherwise take action on any matter by reference to a letter, number or other designation, or other secret device or method, with the intention of making it impossible for persons attending a meeting of the **Council** ~~council~~ to understand what is being deliberated, voted or acted on. The **Council** ~~council~~ may, however, deliberate, vote or otherwise take action by reference to an agenda, if copies of the agenda, sufficiently worded to enable the public to understand what is being deliberated, voted or acted on are available for public inspection at the meeting.

**Sec. 20.34. - Public address to the **Council** ~~council~~.**

~~Any individual or group who wishes to address the council shall make a request to be on the agenda to the town clerk. The council will determine what items to include on the agenda. In addition, The the~~ Council holds a public comment period at every regular meeting in which members of the public may sign up to speak.

**Sec. 20.35. - Order of business.**

(a) Items shall be placed on the agenda according to the order of business. The order of business for the regular meeting shall be as follows:

~~9. Set Public Hearings~~

12. Advisory **Board / Committee** Reports

(c) For items grouped together under ~~4.~~ Consent Agenda, Council may vote for these items as a group, with one (1) motion to approve the lot. Any member of the Council may remove any such item for discussion and a separate vote by so stating their desire to do so.

**Sec. 20.36. - Office of **Mayor** ~~mayor~~.**

The **Mayor** ~~mayor~~ shall preside at all meetings of the **Council** ~~council~~ but shall have the right to vote only when there is a tie. The **Mayor** ~~mayor~~ shall have the following powers:

(1) To recognize a **Council** ~~council~~ member in order for the member to address the **Council** ~~council~~ or to make a motion.

(4) To refer questions of parliamentary procedure to **Town Attorney** ~~town attorney~~.

(7) Majority of **Council** ~~council~~ can overrule chair in regard to the above items (1) to (6).

**Sec. 20.37. - Office of **Mayor Pro Tempore** ~~mayor pro tempore~~.**

~~At the first meeting after their election, the Council shall select a mayor pro tempore. The~~ **Mayor Pro Tempore** ~~mayor pro tempore~~ shall have no fixed term of office, but as such, shall perform all the duties of the **Mayor** ~~mayor~~ in the **Mayor's** ~~mayor's~~ absence or disability. A **Council** ~~council~~ member who serves as **Mayor Pro Tempore** ~~mayor pro tempore~~ shall be entitled to vote on all matters and shall be considered a **Council** ~~council~~ member for all purposes, including the determination of whether a quorum is present. If the **Mayor** ~~mayor~~ should become physically or mentally unable to perform the duties of ~~their~~ ~~his or her~~ office, the **Council** ~~council~~ may by unanimous vote declare the **Mayor** ~~mayor~~ incapacitated and confer any of the **Mayor's** ~~mayor's~~ powers and duties on the **Mayor Pro Tempore** ~~mayor pro tempore~~. When a **Mayor** ~~mayor~~ declares that ~~they are~~ ~~he or she is~~ no longer incapacitated, and a majority of the **Council** ~~council~~ concurs, the **Mayor** ~~mayor~~ shall resume the exercise of ~~their~~ ~~his or her~~ powers and duties. If both the **Mayor** ~~mayor~~ and the **Mayor Pro Tempore** ~~mayor pro tempore~~ are absent from a meeting, the **Council** ~~council~~ may elect from among its members a temporary **chair** ~~chairman~~ to preside at the meeting.

**Sec. 20.38. - Presiding officer when the **Mayor** ~~mayor~~ is in active debate.**

The **Mayor** ~~mayor~~ shall preside at meetings of the **Council** ~~council~~, unless ~~the Mayor becomes~~ ~~he or she becomes~~ actively engaged in debate on a particular proposal, in which case ~~the Mayor~~ ~~he or she~~ may designate another Council ~~council~~ member to preside over the debate. The **Mayor** ~~mayor~~ shall resume presiding as soon as action on the matter is concluded.

**Sec. 20.39. - Action by the **Council** ~~council~~.**

The **Council** ~~council~~ shall proceed by motion. Any member may make a motion.

#### **Sec. 20.44. - Debate.**

The **Mayor** ~~mayor~~ shall state the motion and then open the floor to debate on it. The **Mayor** ~~mayor~~ shall preside over the debate according to the following general principles:

#### **Sec. 20.45. - Procedural motions.**

(1) To adjourn. The motion may be made only at the conclusion of action on a pending substantive matter; it cannot interrupt deliberation of a pending matter. ~~A motion to adjourn to a time and place certain shall also comply with the requirements of section 20.31.~~

(4) To suspend the rules. The motion requires for adoption a unanimous vote of the membership of the **Council** ~~council~~ present, excluding the **Mayor** ~~mayor~~, ~~unless he or she may vote in all cases.~~ The **Council** ~~council~~ may not suspend provisions of the rules that state requirements imposed by law on the **Council** ~~council~~.

(8) To postpone to a certain time or day. This allows the **Council** ~~council~~ to postpone consideration to a specified time or day and is appropriate when more information is needed, or the deliberations are likely to be lengthy. It should be distinguished from the motion to defer consideration.

(9) To refer to a **Committee** ~~committee or Board~~. Sixty (60) days or more after a motion has been referred to a **Committee** ~~committee or Board~~, the **introducer** ~~introduce~~ may compel consideration of the measure by the entire **Council** ~~council~~, whether or not the **Committee** ~~committee or Board~~ has reported the matter to the **Council** ~~council~~.

(14) To prevent reconsideration for six (6) months. The motion is in order immediately following the defeat of a substantive motion and at no other time. The motion requires for adoption a vote equal to two-thirds ( 2/3 ) of the actual membership of the **Council** ~~council~~, excluding the **Mayor** ~~mayor~~, ~~unless he or she may vote in all cases,~~ and vacant seats. If adopted, the restriction imposed by the motion remains in effect for six (6) months or until the next organizational meeting of the **Council** ~~council~~, whichever occurs first.

#### **Sec. 20.48. - Duty to vote.**

Every member must vote unless excused by the remaining members according to law. A member who wishes to be excused from voting shall so inform the **Mayor** ~~mayor~~, who shall take a vote of the remaining members. No member shall be excused from voting, except upon matters involving the consideration of ~~their~~ ~~his or her~~ own financial interest or official conduct. In all other cases, a failure to vote by a member who is physically present in the **Council Chamber** ~~council chamber~~, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.

#### **Sec. 20.49. - Introduction of ordinances.**

A proposed ordinance shall be deemed to be introduced on the date the subject matter is first voted on by the **Council** ~~council~~.



**Sec. 20.50. - Adoption of ordinances and approval of contracts.**

An affirmative vote equal to a majority of all the members of the ~~Council council~~ not excused from voting on the question in issue (including the ~~Mayor's mayor's~~ vote in case of an equal division) shall be required to adopt an ordinance, to take any action that has the effect of an ordinance, or to make, ratify or authorize any contract on behalf of the ~~Town city~~. In addition, no ordinance or action that has the effect of an ordinance may be finally adopted on the date on which it is introduced, except by an affirmative vote equal to or greater than two-thirds ( 2/3 ) of all the actual membership of the ~~Council council~~, excluding vacant seats, and not including the ~~Mayor mayor~~, unless he or she has the right to vote on all questions before the council. No ordinance shall be adopted, unless it has been reduced to writing before a vote on adoption is taken.

**Sec. 20.51. - Adoption of the budget ordinance.**

(a) Notwithstanding the provisions of ~~the Town Charter any city charter~~, general law or local act:

(1) Any action with respect to the adoption or amendments of the budget ordinance may be taken at any regular or special meeting of the ~~Council council~~ by a simple majority of those present and voting, a quorum being present;

(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 council~~; and

(3) The adoption and amendment of the budget ordinance and the levy of taxes in the budget ordinance are not subject to the provisions of ~~the Town Charter any city charter~~ or local act concerning initiative or referendum.

(b) During the period beginning with the submission of the budget to the ~~Council council~~ and ending with the adoption of the budget ordinance, the ~~Council 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:

(1) Each member of the ~~Council board~~ has actual notice of each special meeting called for the purpose of considering the budget; and

(2) No business other than consideration of the budget is taken up.

This rule does not allow, and may not be construed to allow, the holding of closed meetings or closed sessions by the ~~Council council~~ if it is otherwise prohibited by law from holding such a meeting or session.

**Sec. 20.52. - Closed sessions.**

(a) The ~~Council council~~ may hold closed sessions as provided by law. The ~~Council council~~ shall only commence a closed session after a motion to go into closed session has been made and adopted during an open meeting. The motion shall state the general purpose of the closed session and must be approved

by the vote of a majority of those present and voting. The ~~Council council~~ shall terminate the closed session by a majority vote.

**Sec. 20.53. - Quorum.**

A majority of the actual membership of the ~~Council council~~ plus the ~~Mayor mayor~~, excluding vacant seats, shall constitute a quorum. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

**Sec. 20.55. - Quorum at public hearings.**

A quorum of the ~~Council council~~ shall be required at all public hearings as required by state law. If a quorum is not present at such a hearing, the hearing shall be continued until the next regular council meeting without further advertisement.

**Sec. 20.56. - Minutes.**

(a) Summarized and accurate minutes of the ~~Council council~~ proceedings shall be kept and shall be open to the inspection of the public, except as otherwise provided in this rule. The results of each vote shall be recorded in the minutes, and on the request of any member of the ~~Council council~~, the "aye"s and "no"s upon any question shall be taken.

**Sec. 20.57. - Appointments.**

(a) All appointments made by the ~~Council council~~ shall be made in open session. The ~~Council council~~ or a committee of the ~~Council council~~ may consider, but not make, an appointment to another body in closed session, if it follows the requirements set out in the following paragraph. ~~The council may not consider or fill a vacancy among its own membership, except in an open meeting.~~

~~(b) If the council or a committee of the council considers an appointment to another body in closed session as permitted by Section 143-318.11 of the N.C. General Statutes, the council shall, prior to making the appointment, present at an open meeting a written list of the persons then being considered for the appointment, and on the same day shall make the list available for public inspection in the office of the town clerk. The council shall not make the appointment in such a case before the seventh day after the day on which the list was presented.~~

~~(c) The council shall use the following procedure to make appointments to various subordinate boards and offices: All interested parties shall complete a standard application and submit completed application to office of town clerk. After review by the town council of the applications received, the mayor shall open the floor for discussion of applications received whereupon nominations will then be obtained. The names shall then be debated. When the debate ends, the mayor shall call the roll of the members, and each member shall cast his or her vote.~~

**Sec. 20.58. - Committees and ~~Boards. boards.~~**

(a) The ~~Council council~~ or the ~~Mayor mayor~~, as appropriate, may establish and appoint members for such temporary and standing ~~Committees and Boards committees and boards~~ as are needed to help carry

on the work of ~~Town~~ city-government. Any specific provisions of law relating to particular ~~Committees and Boards~~ committees and boards shall be followed.

(b) The requirements of the open meetings law shall apply to all ~~Committees and Boards~~ committees and boards that either are:

- (1) Established by the ~~Council~~ council; or
- (2) Comprised of ~~Council~~ council-members.

#### **Sec. 20.59. - Resignation.**

The oral or written resignation of a ~~Council~~ council-member is not effective until accepted at the next regular or special meeting of the ~~Town Council~~. town council. Resignations may not be withdrawn after acceptance by the ~~Council~~. council.

#### **Sec. 20.60. - Reference to Robert's Rules of Order.**

To the extent not provided for in these rules, and to the extent it does not conflict with state law or with the spirit of these rules, the ~~Council~~ council shall refer to Robert's Rules of Order, Revised, to answer unresolved procedural questions.

### ARTICLE IV

#### **Sec. 20.75. Community Relations Advisory Board.**

(c) *Roles and Responsibilities.* The Board shall assume the following roles and responsibilities:

~~(5) Hold its meetings in various locations of the town to promote good relations in all areas and to afford as many citizens as possible the opportunity to attend such meetings.~~

(d) *Membership.* ~~The Board shall be composed as follows. The Board shall be composed of 9 voting members appointed by the Town Council. One member from each of the communities identified below is preferred:~~

~~(1) Voting. The Board shall be composed of nine (9) voting members appointed by the Town Council. One member from each of the communities identified below is preferred:~~

- ~~(1a)~~ Small business community;
- ~~(2b)~~ Big business community;
- ~~(3c)~~ Non-profit community;
- ~~(4d)~~ Education community;
- ~~(5e)~~ Faith-based community;
- ~~(6f)~~ Youth representative (must be between 18 and 21 years of age or enrolled at a local high school);
- ~~(7g)~~ Wake County Human Services Representative;

(8h) Two at-large members. (Recognizing that no Board composition will ever be representative of all citizens, the at-large members should be selected based on the individual's lived experience. These at-large seats should be used to reflect the current demographic makeup of the town and voices not otherwise represented.)

(e2) *Ex-Officio*. The Mayor shall serve as the ex-officio representative for the Knightdale elected officials.

(a) The ex officio member will not have a vote on items coming before the Board.

(£3) *Staff Support*. The Town Manager, Community Relations Director, Police Chief, and Town Clerk will serve as staff support to the Board. The Town Clerk (or their designee) will prepare and distribute the agenda, take minutes, and record attendance.

(ge) *Terms of Office*. The terms of office for all voting members shall be on a two-year staggered basis.

(1) All terms will begin on March 1 of the year appointed.

(2) All members shall hold their positions until their successors are appointed by the Knightdale Town Council unless they are removed from the Board or they resign.

(hf) *Compensation*. Members of the Board shall serve without compensation.

(ig) *Officers*. The Board shall elect officers from its membership annually for a term of one year. The following officers shall be elected to ensure the orderly conduct of business: Chair and Vice Chair. All officers shall hold their positions until their successors are elected.

(jh) *Meetings, Establishment of a Quorum*. The Board shall meet on a regularly scheduled basis, with its meeting schedule adopted annually.

(1) A quorum shall consist of a majority of the voting members. A quorum must be established before any official action can be taken. Official action shall be approved by a simple majority.

~~—(2) The Chairman may authorize the calling of a special meeting or cancellation of a meeting as needed.~~

(3) All meetings will operate in accordance with the North Carolina General Statutes open meetings law.

(4) The Board shall not establish a subcommittee without prior approval from the Town Council.

(ki) *Acceptance of Grants, Gifts, Etc*. The Board may recommend to the Town Council the acceptance of any grant, gift, bequest, or donation of any personal or real property offered or made for public recreational purposes.

(l) *Code of Ethics*. All voting members of the Board shall sign an Advisory Board Code of Ethics Statement at their first meeting upon appointment. All members are expected to serve as ambassadors for Knightdale supporting the Town Council, Town staff and all programs and initiatives of the town.

(mk) *Authorized Spokesperson.* The Chair is authorized to serve as the spokesperson for the Board to the Town Council. Only the Town Council or Town Manager (or their designee) are authorized to speak on behalf of the town.

(nl) *Conflict of Interest.* The Board shall operate in compliance with North Carolina's conflict of interest laws.

(om) *Limitations of Power, Removal.* The Board is not authorized by the Town Council to operate outside the scope of authority granted under this ~~section. chapter.~~

(1) All voting members are subject to removal by the Knightdale Town Council in their sole discretion.

(2) The Board may recommend to the Town Council the member(s) to be removed.

a. Recommendations shall be made in writing and include specific reasons for removal.

b. The Board may make removal recommendations with a three-fourths majority approval of all voting members.

(3) Members of the Board may be removed by the Town Council for failure to attend 75% or more of meetings within a 12-month period or for any other good cause related to the performance of duties.

#### **Sec. 20.76. Parks and Recreation Advisory Board.**

(d) *Membership.* The Board shall be composed as follows:

(3) *Staff Support.* The Town Manager (or their designee) and Parks, Recreation and Cultural Programs Director will serve as staff support to the Board. The **Town Clerk (or their designee)** ~~Knightdale Parks, Recreation and Cultural Programs Department~~ will prepare and distribute the agenda, take minutes, and record attendance.

(h) *Meetings, Establishment of a Quorum.* The Board shall meet on a regularly scheduled basis, with its meeting schedule adopted annually.

~~(2) The Chairman may authorize the calling of a special meeting or cancellation of a meeting as needed.~~

(k) *Authorized Spokesperson.* The Chair is authorized to serve as the spokesperson for the Board to the Town Council. Only the Town Council or Town Manager (or ~~their his~~ designee) are authorized to speak on behalf of the town.

(m) *Limitations of Power, Removal.* The Board is not authorized by the Town Council to operate outside the scope of authority granted under this ~~section. chapter.~~

#### **Sec. 20.77. Land Use Review Board.**

The ~~Town town~~ has established a Land Use Review Board whose rules, procedures, duties and responsibilities can be found in the Town of Knightdale Unified Development Ordinance.

#### **Sec. 20.78. Board of Adjustment. [Reserved].**

The Town has established a Board of Adjustment whose rules, procedures, duties, and responsibilities can be found in the Town of Knightdale Unified Development Ordinance.

#### **Sec. 20.80 Veterans Memorial Advisory Board.**

(d) *Membership.* The Board shall be composed as follows:

(1) *Voting.* The Board shall be composed of seven (7) voting members appointed by the Town Council. One member shall be a representative of the Two Green Thumbs Garden Club, one shall be a representative of American Legion Post 529, and one shall be a representative of the Disabled American Veterans organization. The remaining membership shall be comprised of citizens who possess a knowledge of Knightdale history and the local veteran community.

(2) *Ex-Officio.* The Mayor shall appoint two (2) ex-officio representatives from the Town Council to serve on the Board.

a. The ex officio members will not have a vote on items coming before the Board.

b. The Mayor shall make ex-officio appointments annually.

(23) *Staff Support.* The Town Manager (or their designee), Parks, Recreation and Cultural Programs Director, and Town Clerk will serve as staff support to the Board. The Town Clerk (or their designee) will prepare and distribute the agenda, take minutes, and record attendance.

(h) *Meetings, Establishment of a Quorum.* The Board shall meet on a regularly scheduled basis, with its meeting schedule adopted annually.

~~(2) The Chairman may authorize the calling of a special meeting or cancellation of a meeting as needed.~~

(k) *Authorized Spokesperson.* The Chair is authorized to serve as the spokesperson for the Board to the Town Council. Only the Town Council or Town Manager (or their his designee) are authorized to speak on behalf of the town.

(m) *Limitations of Power, Removal.* The Board is not authorized by the Town Council to operate outside the scope of authority granted under this section. ~~Chapter.~~

#### **Chapter 21**

#### **Sec. 21.01. - Clerk; duties.**

The Town Manager shall appoint a Clerk, whose duties shall be to: clerk. It shall be the duty of the clerk to:

(e) Perform other duties required by law, or as the Council or Town Manager may direct. ~~as may be required by law, by the Council, or by the Town Manager.~~

#### **Sec. 21.02. - Town Attorney; duties.**

The Council shall appoint a Town Attorney, whose duties shall be to:

(g) Perform ~~other duties required by law, or as the Council or Town Manager may direct. any other duties required by G.S. 160A-173 and other laws and ordinances.~~

**Sec. 21.04. - Finance Officer; duties.**

(g) Perform other ~~duties required by law, or as the Council or Town Manager may direct. duties assigned by the general statutes, the Town charter, the Council or the Town Manager.~~

**Sec. 21.05. - Town Manager; duties.**

(b) The Town Manager shall be the Chief Administrator of the Town and shall be responsible to the Council for administering all municipal affairs placed in ~~their~~ his/her charge by ~~the Council them~~, and shall have the following powers and duties:

(7) Make any other reports that the Council may require concerning the operations of Town departments, offices, and agencies subject to ~~the Manager's~~ his direction and control.

**Sec. 21.06. - Other officers and employees.**

Such other officers and employees as are deemed necessary shall be appointed by the Town Manager. ~~All officers and employees shall serve at the pleasure of the Town Manager and receive such compensation as from time to time may be prescribed by the Council.~~

Title III

Chapter 30

**Sec. 30.01. - Police Department created.**

The Police Department is created subject to the terms, authority, and conditions set out in ~~this chapter. sections 30.02 through 30.06 below.~~

**Sec. 30.03. - Composition of Department.**

The Police Department shall consist of a Chief of Police, police officers (of designated grade), ~~and administrative staff and an auxiliary police division as the Council deems necessary.~~

**Sec. 30.04. - Specific duties of the Police Chief.**

(1) The Police Chief commands the force under ~~their~~ his order, and subject to the Town Manager, is responsible for its hiring, discipline and efficiency.

(2) Additional, specific functions of the Chief of Police are:

(a) To issue to the force under ~~their~~ his command such orders and directives as may be necessary to preserve the public peace, prevent crime, arrest offenders, and to protect public and private property and persons in the Town;

(b) To enforce the laws, ordinances, police regulations, and executive orders

applicable to ~~their~~ his-jurisdiction;

(c) Perform such other lawful duties as shall be assigned by ordinance or otherwise.

## Chapter 31

### **Sec. 31.03. - Specific duties of the Fire Chief.**

(a) The Fire Chief commands the force under ~~their~~ his-order, and subject to the Town Manager, is responsible for its hiring, discipline and efficiency.

(b) Additional, specific functions of the Fire Chief are:

(1) To issue to the force under ~~their~~ his-command such orders and directives as may be necessary to plan, organize, and direct the activities of the Department to include fire suppression, fire prevention, medical aid, rescue, fire inspections and investigations, hazardous material mitigation, and disaster planning.

(2) To enforce the laws, ordinances, North Carolina Fire Code, and executive orders applicable to ~~their~~ his-jurisdiction.

### **Sec. 31.10. - Adoption of fire prevention code.**

The Town adopted the 2006 North Carolina State Building Code (Fire Code), the source being from the International Code Council with North Carolina Amendments including the following appendixes:

- B. Fire-Flow Requirements for Buildings.
- C. Fire Hydrant Locations and Distribution.
- D. Fire Apparatus Access Roads.
- E. Hazard Categories.
- F. Hazard Rankings.
- G. Cryogenic Fluids—Weight and Volume Equivalents.

To the extent the North Carolina State Building Code (Fire Code) is hereafter amended and such amendment is inconsistent with the 2006 edition hereby adopted, section 31.10 of the Knightdale Code of Ordinance[s] is automatically amended in accordance with such State Fire Code amendments. A copy of the ~~Fire Code code~~ in its entirety shall be maintained in the office of the ~~Fire Chief. Town Clerk.~~

### **Sec. 31.11. - Enforcement.**

The ~~Fire Code code~~ hereby adopted shall be enforced by the Chief of the Fire Department or ~~their~~ his or her designee.

### **Sec. 31.13. - Modifications.**



The Chief of the Fire Department shall have power to modify any of the provisions of the ~~Fire Code code~~ hereby adopted on application in writing by the Owner or lessee, or ~~their~~ his duly authorized agent when there are practical difficulties in the way of carrying out the strict letter of the ~~Fire Code code~~, provided that the spirit of the ~~Fire Code code~~ shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Chief of the Fire Department thereon shall be entered on the records of the Department and a signed copy shall be furnished the applicant.

#### **Sec. 31.14. - Appeals.**

Whenever the Chief of the Fire Department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the ~~Fire Code code~~ do not apply or that the true intent and meaning of the ~~Fire Code code~~ have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Fire Department to the Town ~~Manager manager~~ within thirty (30) days from the date of the decision appealed.

#### **Sec. 31.15. - Open burning.**

(d) Permissible open burning with required permit. While recognizing that open burning contributes to air pollution, certain types of open burning may reasonably be allowed in the public interest. The authority to conduct open burning under the provision of this section does not exempt or excuse a person from the consequences, damages or injuries which may result from such conduct, nor does it excuse or exempt any person from complying with all applicable laws, ordinances, regulations, and orders of other governmental entities having jurisdiction even though the open burning is conducted in compliance with this section. The following types of burning are permissible within the Town limits with a ~~Town-issued town-issued~~ burning permit.

### Chapter 32

#### **Sec. 32.03. - Authorization of action during state of emergency.**

(c) The Mayor is hereby authorized and empowered to limit by the proclamation the application of all or any part of such restrictions to any area specifically designated or specific hours of the day or night; and to exempt from all or any part of such restrictions law enforcement officers, firefighters and other public employees, EMS personnel, doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel whether state or federal; on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit; and such other ~~persons who, because of employment, training or skills are critically necessary to the Town and its citizens during the emergency.~~ ~~classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of the people within the Town.~~

(d) The Mayor or ~~their~~ his designee may by proclamation impose the prohibitions and restrictions specified in subsection (e) of this section in the manner described in those sections. The Mayor may impose as many of those specified prohibitions and restrictions as ~~they find~~ he finds necessary because of an emergency to maintain an acceptable level of public order and services and to protect lives, safety, and property. The Mayor shall recite ~~their~~ his findings in ~~their~~ his proclamation. The proclamation shall

be in writing. The proclamation shall be posted in Town Hall. The Mayor shall send reports of the substance of the proclamation to the mass communications media which serve the area. The Mayor shall retain a text copy of the proclamation and furnish upon request certified copies of it.

(e) During the existence of a proclaimed state of emergency, the Mayor may impose by proclamation any or all of the following restrictions:

(1) Prohibit or regulate the possession of one's own premises of explosives, firearms, ammunition, or dangerous weapons or substances of any kind, and prohibit the purchase, sale, transfer or other disposition thereof. The Mayor may exempt from some or all of the restrictions **persons who, because of employment, training or skills are critically necessary to the Town and its citizens during the emergency,** ~~classes of people whose possession, transfer, or transportation of certain dangerous weapons or substances is necessary to the provision of the public's health, safety or welfare.~~ The proclamation shall state the exempted **groups of persons** ~~classes~~ and the restrictions from which each is exempted.

(7) Curfew. The proclamation may impose a curfew prohibiting certain areas and during certain periods the appearance in public of anyone whom is not a member of an exempted **group of persons.** ~~class.~~ The proclamation shall specify the geographical area or areas and the period during each twenty-four (24) hour day to which the curfew applies. The proclamation shall state the exempted **groups of persons** ~~classes~~ and restrictions from which each is exempted.

#### Title IV

#### Chapter 40

**Sec. 40.19. - Streets not to be damaged by **equipment.** ~~tractors or harrows.~~**

**Sec. 40.35. - Addressing system.**

**Addresses are assigned in conformance with Wake County GIS protocol and in accordance with the Town of Knightdale Road Naming and Addressing Manual.**

~~—(a) Because there is no way of determining how many structures will eventually be built on vacant land within a block, addresses will be assigned so as to provide the flexibility to accommodate change.~~

~~—(b) Corner lots are assigned two (2) numbers since the unit could face either street. The owner or developer shall be assigned the street address that accommodates the front entrance of the structure at the time of permit application.~~

~~—(c) One (1) structure number shall be assigned to each structure whose units share a common roof. Each unit within the structure shall be assigned a unit designator. Allowed unit designators include apartment numbers for each apartment, and numbers for commercial buildings. The unit designator shall be a number and shall not include alphabetic characters. Residential unit and commercial suite designators shall be as follows:~~

~~—(1) Ground level floor numbers: #101, #102, #103, etc.~~

~~—(2) Second floor numbers: #201, #202, #203, etc.~~

## Chapter 41

### Sec. 41.01. - Definitions.

Recyclables. The private hauler(s) contracted by the Town to pick up recyclables will maintain a list of accepted recyclable materials. ~~At July 1, 2012, accepted recyclable materials were: Newspaper, white paper, green/brown/clear glass, corrugated cardboard, paperboard such as cereal boxes and shoe boxes, plastic bottles 1—5, juice boxes, paper cartons, metal food cans, aluminum beverage cans, aluminum foil, six pack rings, magazines and junk mail.~~

### Sec. 41.07. - Collection schedule.

#### (a) Collection and disposal.

(1) Residential solid waste, yard waste and recyclables will be collected by the Town according to a collection schedule maintained in the ~~Public Works Finance~~ Department. Such schedule may be periodically revised and amended by action of the Council.

## Title V

~~The Town of Knightdale adopts by reference the City of Raleigh Code of Ordinances; Division II, Code of General Ordinances; Part 8, Public Utilities; Chapter 2, Water and Sewer Service, having to do with the provision of water, sewer and reuse water."~~

## Title VI

## Chapter 60

~~Sec. 60.02. - Regulating ~~sellers~~ salesmen, promoters, solicitors, and peddling.~~

## Chapter 62

### Sec. 62.03. - Permit required.

Any alarm system utilizing an "automatic signal transmission" or an "automatic dialer" that calls the Emergency Communications Center and/or the ~~Police Public Safety~~ Department shall require a permit from the Town before the installation of the system. There shall be no cost for this permit; however the installer and/or user shall be responsible for all installation and maintenance costs associated with these systems. Such permit shall be posted in a conspicuous place on the outside of the premises where the alarm system is maintained.

### Sec. 62.06. - Appeal process.

The Town Manager shall have the authority, in ~~their~~ his discretion, to waive any penalty charged to a subscriber when the subscriber submits proof in writing from an alarm business operator that the alarm activation was a mechanical failure that was caused by conditions beyond the control of the subscriber and such mechanical failure has been repaired, or where there is adequate evidence that there was a crime or attempted crime committed at the location that caused the activation of a properly functioning system.

## Chapter 63

### Sec. 63.01. - Volunteer coaching requirements.

(c) Upon receipt of an application, the Human Resources Department shall conduct a background check of each applicant. Any applicant will be prohibited from volunteering if **they have** ~~s/he has~~ been convicted of a crime determined by the Town to be detrimental to youth and other citizens.

## Title VII

### CHAPTER 70 - TRAFFIC & PARKING REGULATIONS

#### Sec. 70.01. - Traffic and parking regulations.

(a) Town traffic and parking regulations will be established by ordinance and the Council. When a new traffic or parking ordinance is adopted, the Chief of Police **shall coordinate with Development Services and/or Public Works to ensure** ~~shall make certain that~~ the appropriate sign, traffic-control signal, or other markings are made to give proper notice of the regulation.

~~(b) A list of all Town traffic and parking regulations shall be maintained in the office of the Clerk. The current list is incorporated by reference into this chapter.~~

(1) No person shall stand or park a motor vehicle within the public right-of-way for the purpose of displaying it for sale.

(2) All owners and drivers operating vehicles with a gross vehicle weight rating in excess of thirty thousand (30,000) pounds are hereby prohibited from using the public streets of the Town of Knightdale which are zoned residential or which abut residentially zoned property, except for the purposes of travel and transporting, loading and unloading freight and passengers or other service calls, and except for temporary parking in cases of emergency involving a mechanical breakdown necessitating repairs to any such vehicle. Provided that the provisions of this section shall not apply to school buses parked in conformity with permits issues by the Police Department.

(3) Definitions for purposes of this section shall be the same as defined in G.S. 20-4.01, as the same may be from time to time amended.

(4) Every twenty-four-hour period in which a parking offense described above occurs shall be considered a separate offense, each of which carries a penalty of twenty-five dollars (\$25.00).

#### Sec. 70.08. - Authority of police and Fire Department officials.

(c) Officers of the Fire Department, when at the scene of a fire, may direct or assist the police in directing traffic ~~thereat or in the immediate vicinity.~~

#### Sec. 70.31. Registration.

(b) The cost for the registration shall be established annually with the adoption of the fee schedule and will be payable to the **Town** ~~town~~ at the time of registration. The registration shall be valid for no more than one year and is to be renewed annually at which time the owner shall submit the above documents and shall schedule the vehicle for a subsequent inspection. Registration fees shall not be prorated.

### **Sec. 70.32. Inspection.**

No golf cart may be operated on any street or highway in the town without first passing an inspection which will be conducted prior to the issuance of a ~~Town town~~ registration decal. Furthermore, no registration decal will be issued until the operator presents proof that the golf cart is fully insured, and the operator has a valid North Carolina driver's license or recognized valid driver's license from another state. To pass the inspection for the ~~Town town~~ and to obtain a golf cart permit, the golf cart must have the following:

- (a) Operational headlight(s) and taillight(s);
- (b) Rubber or equivalent tires;
- (c) Operational steering gear, brakes, emergency or parking brake, rearview mirror, adequately affixed driver seat(s); and
- (d) Other requirements as set forth in this article must be complied with.

### **Sec. 70.33. Operation.**

(n) Each golf cart owner must have proof of ownership, liability insurance and a completed waiver of liability releasing the ~~Town town~~ from liability that may arise as a result of operation of a golf cart inside the town. These documents must always be in the golf cart while in operation on public roads.

## Chapter 71

### **Sec. 71.01. - Illegal parking; overtime.**

If any vehicle shall be found illegally parked or parked overtime or in violation of any of the provisions of this chapter, it shall be the duty of the Chief of Police or other police officers of the Town to attach to the vehicle a notice to the owner or operator thereof, if the owner or operator is absent, or to deliver to the owner or operator, if ~~they are~~ ~~he is~~ present, a notice to the effect that the vehicle has been illegally parked or parked overtime or in violation of a provision of this chapter.

## Chapter 72

### **Sec. 72.01. - Temporary parking restrictions by Chief of Police.**

(a) The Chief of the Police Department, or ~~their~~ ~~his~~ duly appointed representative, is authorized to prohibit on a temporary basis the parking of vehicles under the following circumstances;

- (1) Along parade routes permitted by the Police Department of the ~~Town city~~ for a period of two (2) hours before a parade begins until one hour after the end.

### ~~Sec. 73.15. - Not more than three passengers permitted in front seat.~~

~~It shall be unlawful for the driver or the person in charge of any motor vehicle to permit more than four (4) persons (including the driver) to ride in the front or drivers seat.~~

### **Sec. 73.18. - Clinging to moving vehicles.**

(a) It shall be unlawful for any person riding upon any bicycle, motorcycle, coaster, sled, roller skates or any toy vehicle to attach the same or ~~themselves himself~~ to any moving vehicle upon any roadway.

**Sec. 73.20. - Driving under hazardous conditions.**

It shall be unlawful for any person to operate a motor vehicle upon public streets on which there is an accumulation of ice or snow unless the vehicle is equipped adequately to insure the continued, controlled mobility of the vehicle under the existing conditions; provided, the failure of an operator to maintain the continued controlled mobility of ~~their his~~ vehicle under the above conditions or the abandonment of a motor vehicle ~~under section 11-2028~~ under the above conditions, shall be deemed to be a failure to properly equip such vehicle as required by this section. ~~It shall be unlawful to allow or cause a motor vehicle to stand or remain standing on the main traveled way of a street or highway in the city in violation of section 11-2171 or otherwise.~~

Title VIII

Chapter 80

**Sec. 80.07. - Removal of abandoned, nuisance or junked motor vehicles; pre-towing notice requirements.**

Except as set forth in ~~this chapter, Section 7 below~~, an abandoned, nuisance or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee, or occupancy of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. The person who mails the notice(s) shall retain a written record to show the name(s) and address(es) to which mailed, and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the Town on a specified date (no sooner than seven (7) days after the notice is affixed). The notice shall state that the vehicle will be removed by the Town on a specified date, no sooner than seven days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

With respect to abandoned vehicles on private property, nuisance vehicles and junked motor vehicles to which notice is required to be given, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned, a nuisance vehicle or in the case of a junked motor vehicle that the aesthetic benefits of removing the vehicle outweigh the burdens, such appeal shall be made to the Town Council in writing, heard at the next regularly scheduled meeting of the Town Council, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

**Sec. 80.09. - Removal of vehicle; post-towing notice requirements.**

Any abandoned, nuisance or junked motor vehicle which has been ordered removed may, as directed by the Town, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the Town. Whenever such a vehicle is removed, the authorizing Town official shall immediately notify the last known registered owner of the vehicle, such notice to include the following:

- (1) The description of the removed vehicle;
- (2) The location where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;
- (4) The procedure the owner must follow to redeem the vehicle; and
- (5) The procedure the owner must follow to request a probable cause hearing on the removal.

The Town shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in subsections (1) through (5) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or ~~their~~ ~~his~~ agent.

If the vehicle is registered in North Carolina, notice shall be given within twenty-four (24) hours. If the vehicle is not registered in the state, notice shall be given to the registered owner within seventy-two (72) hours from the removal of the vehicle.

Whenever an abandoned, nuisance or junked motor vehicle is removed, and such vehicle has no valid registration or registration plates, the authorizing Town official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify ~~them~~ ~~him~~ of the information set forth in subsections (1) through (5) above.

#### **Sec. 80.14. - Protection against criminal or civil liability.**

No person shall be held to answer in any civil or criminal action to any owner or other ~~person~~ ~~persona~~ legally entitled to the possession of an abandoned, nuisance or junked motor vehicle, for disposing of such vehicle as provided in this chapter.

### Chapter 81

#### **Sec. 81.01. - Adoption of chapter; scope.**

The Wake County Animal Control Ordinance, and subsequent amendments, are hereby adopted for use within the corporate limits of the town. The County is hereby authorized to enforce all provisions of its duly adopted Animal Control Ordinance within the corporate limits of the town and to ~~respond~~ ~~respond~~ to all calls for service under its ordinance.

#### **Sec. 81.37. - Definitions.**

Domestic animal. Any animal that is neither livestock nor exotic by definition, domesticated by ~~man~~ ~~man~~ as to live and breed in a tame condition.

#### **Sec. 81.41. - Exotic or wild animals.**

(a) It shall be unlawful for any person to keep, maintain, possess or have under ~~their~~ his control within the Town any venomous reptile or any other wild or exotic animal.

**Sec. 81.45. - Penalties for violation.**

(c) Payment of a fine imposed in criminal proceedings pursuant to this subsection does not relieve a person of ~~their~~ his liability for taxes, civil penalties or fees imposed under this ordinance.

Chapter 82

**Sec. 82.05. - Penalties.**

(a) ~~Violations of this ordinance may subject the violator to criminal as well as civil action. In addition to the civil penalties or fees imposed under this ordinance, violation of this ordinance shall be a misdemeanor for which a criminal summons may be issued.~~

Chapter 83

**Sec. 83.03. - Notice to abate; right to appeal; abatement.**

(a) If the Town's Code Enforcement Officer determines that a nuisance condition exists on the affected lot, the officer shall give notice to the owner of the premises to abate or remove such conditions within ten (10) calendar days. Serving of such notice shall be by any one (1) of the following methods:

(2) By the deposit of first class mail, postage prepaid, to the owner of the property at ~~their~~ his or her last known address, as listed by the Wake County ~~Tax Administration. Revenue Department.~~

(c) The notice shall state specifically which nuisance condition listed in Section 83.01 is present on the affected parcel of land, and shall also inform the property owner that ~~they~~ he or she may, within the ten-day period, appeal the Code Enforcement Officer's decision to the Town Council by giving written notice to the Code Enforcement Officer.

**Sec. 83.06. - Abatement by Town.**

Following an appeal hearing, if the Town Council has ordered the Town's Code Enforcement Officer to abate the nuisance condition on the affected lot, the Code Enforcement Officer shall deposit a first class mail notice, postage prepaid, to the property owner as reported by the Wake County ~~Tax Administration Revenue Department~~ that ~~they~~ he or she must abate the nuisance within ten (10) days of the deposit. If the property owner within this ten-day period neglects to abate the public nuisance condition, then the Code Enforcement Officer shall cause the condition to be removed or otherwise remedied by having employees of the Town, or subcontractors retained by the Town, go upon the premises and remove or otherwise abate the nuisance under the supervision of the Code Enforcement Officer. The expense of remedying the abatement shall be paid by the property owner. If the expense is not paid, it is a lien on the land or premises where the nuisance occurred, and such lien shall have the same priority and be collected as unpaid ad valorem taxes. In addition hereto, any such unpaid expenses shall be a lien on other property owned by such property owner located within the Town's corporate limits, or within one (1) mile of the Town's corporate limits, except for such property owner's primary residence, and such lien shall have the same priority as a money judgment lien.



**Sec. 84.01. - Concealed weapons and discharge of firearms.**

(3) ~~This section shall be enforced in accordance to N.C. General Statute 14-415.23. This section shall become effective on adoption.~~

**Sec. 84.04. - Unnecessary noise.**

(i) Permits.

(3) Number of hours. In the case of excess amplification under § 84.04(h), no permits shall be issued which shall have the effect of allowing more than twenty (20) hours of excess amplification per year at any place of public entertainment or ten (10) hours of excess amplification at any other location. Permits shall be tentatively approved and subsequently granted by the noise control officer in the order of receipt unless permits for twenty (20) or more hours have previously been issued for the same or other locations within a one thousand (1,000) foot radius of the facility in the same calendar year, in which event the applicant shall elect whether to limit ~~their~~ ~~his~~ request so as to keep the year's accumulated hours of excess amplification in that location between twenty (20) hours or select another location.

(5) Denial; exceptional permit. If an applicant has been denied a permit under this section and believes the denial is illegal by applicable state or federal law, the applicant shall promptly submit a copy of the denied permit application together with a short statement of the reasons the applicant believes ~~they are~~ ~~he is~~ entitled to a permit to the Town Manager. The Town Manager shall have the discretion to grant an exceptional permit waiving locational, time, and/or dB(A) requirements, upon the determination by the Town Manager that the applicant has made a substantial showing of legal entitlement. Any such exception permit shall be promptly reported to the Town Council.

(k) Equitable remedies.

(1) Civil penalty. Violation of this section shall subject the offender(s) to a civil penalty in the amount of fifty dollars (\$50.00). In the event there is more than one (1) violation within any one (1) year period, then the civil penalty shall be increased for each additional violation over one (1) during such period, as follows.

Second offense within one (1) year: \$100.00

Third offense within one (1) year: \$200.00

Fourth and any subsequent offense within one (1) year shall be enforced through the issuance of the criminal summons ~~for a Class 3 misdemeanor~~ to the responsible party.

Once the one (1) year period has run from the "first violation," the next violation shall be a first violation for the purposes of establishing a new one (1) year period.

Violators shall pay any issued penalty within ten (10) days of the issue date and time. The Town Attorney, or designee, is authorized to file suit on behalf of the town to collect any unpaid citations, and the Development Services Director, Police Chief, or their designee, is authorized to verify and sign complaints on behalf of the Town in such suits. A code enforcement officer, police officer, animal

control officer enforcing subject matter jurisdiction, or other employee duly authorized to enforce the noise control ordinances may issue a citation for violations of this article. In general, the police department will respond, investigate, and enforce noise complaints and violations. The Town's code enforcement officers shall be responsible for the investigation and enforcement of noise complaints when they are a result of construction work, business operations, or zoning violations. Complaints of this nature are to be referred to the Town's code enforcement officer by the police department.

Appeal of a civil penalty amount may be made to the Town Manager or designee within thirty (30) calendar days from the date of issuance by filing an appeal stating with specificity the grounds for the appeal and the reasons the penalty should be reduced or abated. In considering the appeal, the penalty or fine, the Town Manager or designee may consider the following:

- a. the gravity of the violation;
- b. any action taken by the violator to correct the violation;
- c. the cost of the action to correct the violation; and
- d. any previous violations committed by the violator, on the same or different site.

(2) Equitable remedies. This article may also be enforced through equitable remedies issued by a court of competent jurisdiction.

(3) Criminal penalty. In addition to, or in lieu of, such civil penalties or other remedies, violation of this article shall constitute a misdemeanor.

(4) Enforcement. This article may be enforced by any one, all or a combination of the remedies set out herein.

**Sec. 84.05. — Limitations on the blowing of train whistles.**

~~It shall be unlawful for any person to blow or sound any railroad train whistle, horn, or other sound device louder or longer than is absolutely necessary as a safety device for protection of persons and property while going at a lawful rate of speed, within the Town, between the hours of 10:00 p.m. and 7:00 a.m.~~

**Sec. 84.08. - Discharge of firearms, fireworks, and the like.**

No person shall discharge any firearms, fireworks, or any other explosive contrivance within the ~~incorporated~~ inhabited portion of the Town, ~~without the Town Manager's consent.~~

**Sec. 84.09. - Loitering.**

(a) No person shall loiter, lounge, or sleep in or on any street, park, or public place or in any public building, or obstruct the access to any public building or any part thereof, or obstruct passage through or on any public street, park, or public place.

(b) For the purposes of this section, "loiter" shall encompass, but shall not necessarily be limited to, one or more of the following acts:

~~—(3) Remaining idle in essentially one location without being able to establish having a legitimate business or purpose in so remaining idle or who by his conduct has exhibited the absence of a lawful purpose in so remaining idle.~~

~~—(4) Conduct involving the concept of standing idly by, loafing, walking about aimlessly without purpose and including the colloquial expression of "hanging around."~~

(5) Refusing to move on when so requested by a **police** peace-officer provided that the **police** peace officer has exercised **their** ~~his~~ discretion reasonably under the circumstances in order to preserve or promote public peace and order.

#### **Sec. 84.15. - Railroads—Blocking crossings.**

It shall be unlawful for any railroad conductor of any passenger or freight train to allow **their** ~~his~~ train to stand upon or block any public crossing of the Town for a longer time than five (5) minutes.

#### **Sec. 84.17. - Sale, consumption and possession of alcohol prohibited in certain areas.**

(a) Except as provided by this chapter, it shall be unlawful for any person to consume, serve, drink or possess an open container of wine, beer, whiskey or any other alcoholic beverage as defined by Chapter 18B of the General Statutes of the State of North Carolina on or within the rights-of-way of any municipal street, public vehicular area, alley, or any public property owned or occupied by the Town, except where and when specifically permitted by resolution adopted by Town Council. It shall also be unlawful to possess wine, beer, whiskey or any other alcoholic beverage on any street, alley or parking lot which is temporarily closed to regular traffic for a special event unless the resolution of Town Council closing the street, alley, or parking lot makes other provisions for the possession of wine, beer, whiskey or any other alcoholic beverage. An open container is one whose seal has been broken or a container other than the manufacturer's unopened original container.

(b) Pursuant to authority granted by S.L. 2017-87 any establishment located in the corporate limits of Knightdale and holding an ABC permit issued pursuant to G.S. 18B-1001 is permitted to sell beverages allowed by its permit beginning at 10:00 a.m. on Sundays.

**(c) Violators of this ordinance may subject to a misdemeanor in accordance with N.C. General Statute 18B.**

#### **Sec. 84.19. —~~[Compliance with other ordinances.]~~**

~~This Ordinance shall be in addition to and not in conflict with all ordinances heretofore enacted pertaining to the public consumption of alcoholic beverages.~~

#### **Sec. 84.20. —~~[Effective date.]~~**

~~This Ordinance shall be in full force and effect from the date of its adoption and enactment.~~

#### **Sec. 84.23. - Youth protection—Restrictions upon juveniles during specified hours.**

(c) Offenses. Except as provided by subsection (d), the following offenses constitute a violation of this section:

(1) A person under the age of eighteen (18) years shall be in violation of this section if ~~they he or she~~ shall remain at any time in a group of four (4) or more individuals in or upon any public place or establishment within the Town.

(2) It shall be a violation of this section for any person under the age of eighteen (18) years to be or remain in or upon any public place or establishment within the Town during the restricted hours.

(3) It shall be a violation of this section for any person eighteen (18) years or older to aid or abet a juvenile in the violation of subsection (c)(1) or (c)(2).

(4) A parent of a juvenile shall be in violation of this section if ~~they he or she~~ knowingly ~~permit permits~~, and/or by inadequate supervision, allows the juvenile to remain on the premises of any establishment or in any public place within the Town during the restricted hours. The term "knowingly" includes knowledge that a parent should reasonably be expected to have concerning the whereabouts of a juvenile in that parent's legal custody. This requirement is intended to hold a neglectful or careless parent up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such juvenile.

(5) It shall be a violation of this section for a parent of a juvenile to refuse to take custody of the juvenile during the restricted hours.

(6) The owners, operator, or any employee of an establishment shall be in violation of this section if ~~they he or she~~ knowingly allow ~~allows~~ a juvenile to remain upon the premises of the establishment during the restricted hours. The term "knowingly" includes knowledge that an operator or employer should reasonably be expected to have concerning the patrons of an establishment.

(f) Enforcement procedures.

(1) If a police officer reasonably believes that a juvenile is in violation of the ordinance the officer shall notify the juvenile that ~~they are he or she is~~ in violation of the ordinance and shall require the juvenile to provide ~~their his or her~~ name, address and telephone number and how to contact ~~their his or her~~ parent or guardian. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate, a police officer shall, in the first instance of violation of the ordinance, use ~~their his or her~~ best judgment in determining age.

**Sec. 84.24. - Restricted construction and commercial activity. ~~{Restricted construction and commercial activity.}~~**

**Sec. 84.25. - Parking on natural surfaces prohibited.**

(c) Definitions. For the purposes of this section, the following words and phrases shall have the following meanings:

~~{Yard.}~~

Chapter 85

**Sec. 85.02 - Definitions.**

*Smoking.* The use or possession of **all tobacco, non-tobacco nicotine, and nicotine free products, including chewing tobacco, snuff, e-cigarettes or electronic cigarettes, and vapor products.** ~~a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.~~

#### Chapter 86

##### Sec. 86.02. - Bicycle helmets required.

(a) Any person less than sixteen (16) years of age operating or riding on a bicycle, in line skates, scooters, or any other non-motorized vehicle on a public roadway, greenway, bicycle path, or any right-of-way under the jurisdiction of the Town shall wear a properly fastened protective helmet designed for safety on **their** ~~his or her~~ head. Such helmet shall be fitted to size of the user and shall meet or exceed the standards for bicycle helmet use and wear as set by ANSI (American National Standards Institute) Z90.4 or subsequent bicycle helmet standards or the Snell Memorial Foundation's 1984 Standard for Protective Headgear for use in bicycling or subsequent standards. Failure to wear the required helmet shall constitute an infraction.

#### Chapter 87

##### Sec. 87.03. - Accessibility to graffiti implements.

(c) **Effective date.** ~~[Effective date.]~~ The provisions of this section shall not be effective until (45) forty-five days following written notice from the Town to the owner/operator of the commercial retail establishment. Written notice shall be deemed accomplished by the First Class postage mailing of a copy of this ordinance [Anti-Graffiti Ordinance] to the address of the property occupied by the establishment as listed with the Wake County Tax Office and to the address of the Commercial establishment listed with the **City of Raleigh** ~~Town's~~ water billing office.

##### Sec. 87.08. - Removal of graffiti by property owner or **Town City.**

#### Title IX

#### Chapter 91. - **Subdivision Regulations** ~~Reserved~~

**Subdivision Regulations are addressed in the Town of Knightdale Unified Development Ordinance.**

#### Chapter 92

##### Sec. 92.06. **Inspections.**

(c) Emergency cases. In cases where it appears that there is an imminent danger to life or safety of any person unless an unsafe building is immediately repaired, vacated, closed, or demolished, the Code Enforcement Officer shall order its immediate repair, evacuation, closing or demolition as **they** ~~he or she~~ may deem necessary, notwithstanding the other provisions of this article. The officer may take the temporary measures necessary to safeguard persons from immediate danger of collapse of such building and is authorized to close temporarily sidewalks, streets, and other buildings in places adjacent to such unsafe building and prohibit the same from being used, pending the elimination of the danger. The cost of emergency measures taken shall become a lien against the premises upon which the emergency condition existed upon confirmation of the cost by the Town Council. The confirmation shall take place

only after ten (10) days written notice to the owner of the premises where the nuisance existed. The Council may also notify any other parties of interest of the emergency condition.

**Sec. 92.07. Procedure for enforcement.**

(d) Issuance of order after hearing. If, after such notice and administrative hearing, the officer shall determine that the building under consideration is unsafe under the terms of this article, the officer shall state in writing ~~their~~ his findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order. If any party in interest other than owner took part in the administrative hearing, the order shall also be served on that person. The Town at its discretion may also serve the order on other parties of interest in the building who did not take part in the administrative hearing. The order shall require the owner, within the time specified in the order, but not less than sixty (60) days, to repair, alter or improve the building in order to render it safe, or to close such building, or to demolish and remove such building. Any unsafe building ordered to be closed or to be demolished and removed must immediately be vacated upon notice of the order. The officer may require, upon notice of the order, any unsafe building to be repaired, altered, or improved to be vacated until such time as the officer determines the building has been made safe. The officer must affix a copy of the order on the unsafe building, and also a notice stating: "This building is unsafe." For those unsafe buildings which must be or are required to be vacated, notice shall further state: "This building is unsafe and unfit for human habitation. Occupation of this building for human habitation is prohibited and unlawful." It is the owner's responsibility to ensure that the building is immediately vacated of all occupants until such time as the officer determines the building has been made safe. In its order the Town may permit a specified party in interest to carry out the order provided that the specified party in interest demonstrates at the hearing its proper legal authority to fulfill the order by making the building safe. Such permission granted by the Town to a specified party in interest shall be in addition to, and not in lieu of, the owner's duty to fully comply with the order and does not relieve the owner of any legal responsibilities.

(e) *Methods of service of complaints and orders.*

(2) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the officer in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by registered or certified mail, and the officer makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the town at least once, no later than one (1) week prior to the administrative hearing. Nothing in the section limits the Town, in its discretion, from providing additional notice by publication in a newspaper having general circulation in ~~the Town.~~ ~~[text missing]~~

**Sec. 92.08. Filing of notice of lis pendens.**

Lis pendens (a pending suit), in general terms, is a notice filed on public records for the purpose of warning all persons that the title to certain property is in litigation, and they are in danger of being bound by an adverse judgment. Upon the issuance of a complaint and notice of hearing or order pursuant thereto, a notice of lis pendens, with a copy of the complaint and notice of hearing or order attached thereto, may be filed by the officer in the office of the ~~Clerk of Superior Court~~ ~~clerk of superior court~~ for the county, as provided in G.S. 1-120.2. The officer shall serve a copy of the notice of lis pendens upon

the owners and parties in interest in the building, including any lien holders and tenants who may be determined by the exercise of reasonable diligence. The officer may have the notice of lis pendens canceled at such time as the building is brought into conformity with this article by sending to the **Clerk of Superior Court** ~~clerk of superior court~~ a notice asking that the notice of lis pendens be canceled.

**Sec. 92.09. Failure to comply with order.**

(e) *Enforcement of order.*

(2) Additional resolution one year later. If the officer shall have issued an order ordering a building to be repaired or vacated and closed, and such building has remained unrepaired or vacated and closed for a period of one (1) year, either by action of the owner as provided in subsection 92.09(b) above or following the adoption of a resolution by the Board of Commissioners pursuant to subsection 92.09(e)(1), then, if the Town Council shall find that the owner has abandoned the intent and purpose to repair, alter or improve the building in order to render it safe, and that the continuation of the building in its vacated and closed status would be inimical to the health, safety, morals and welfare of the Town in that the building would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, or would render unavailable property and housing which might otherwise have been made available to ease the persistent shortage of decent and affordable housing, in such circumstances the **Town Council** ~~Board of Commissioners~~ may, after the expiration of such one-year period, enact a resolution and serve such resolution on the owner requiring the owner to either repair or demolish and remove the building within ninety (90) days. The Town may also serve such resolution on any parties of interest. Such resolution shall be recorded in the office of the **County Register of Deeds** ~~county register of deeds~~ and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this resolution within the time fixed by such resolution, then the officer shall effectuate the purpose of the resolution. The cost of such repairs, demolition or removal shall be a lien on the property pursuant to G.S. 160D-1125(b) and (c).

**Sec. 92.10. Appeals from orders of the officer, review by court.**

(a) Appeals to Board. All appeals which may be taken from decisions or orders of the officer pursuant to this article shall be heard and determined by the Board of **Adjustment** ~~Adjustments~~. As the appeals body, the Board shall have the power to fix the times and places of its meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties. The Board shall keep an accurate journal of all its proceedings.

(b) When appeal may be taken. An appeal may be taken from a final decision or an order of the officer by the owner or party in interest, an authorized representative of the Town, other than the officer issuing the final decision or order, or the **Town Council** ~~Board of Commissioners~~ of the Town upon proper notice. Except as provided herein, any appeal shall be taken no later than ten (10) days from the date of service of the decision or order as determined by subsection 92.07(e) by filing with the officer and with the **Town Council** ~~Board of Commissioners~~ a written notice of appeal which shall specify with particularity all the grounds upon which the appeal is based. No time limit shall apply to an appeal by an authorized representative or the Town or the **Town Council** ~~Board of Commissioners~~.

(c) Duty of officer. Upon the filing of an appeal upon the filing of any notice of appeal, the officer shall forthwith transmit to the Board of ~~Adjustment Adjustments~~ all the papers constituting the record upon which the final decision or order appealed from was made. The officer shall also report the appeal to the Town Manager, who shall cause the matter to be placed on the agenda for action by the Board at its next ensuing regular meeting, and shall notify the appellant of the date the Board will hear the matter.

(d) Staying of action. When an appeal is from a decision or order of the officer refusing to allow the person aggrieved thereby to do any act, the officer's decision or order shall remain in force until modified or reversed. When an appeal is from a decision or order of the officer requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the officer certifies to the Board, after the notice of appeal is filed with the officer, that by reason of the facts stated in the certificate (a copy of which shall be furnished to the appellant), a suspension of the officer's requirement would cause imminent peril to life or property. In that case, the requirement shall not be suspended except for due cause shown upon not less than one (1) day's written notice to the officer, by the ~~Town Council Board of Commissioners~~, or by a court of record upon petition made pursuant to G.S. 160D-1127 and this section.

(e) Hearing of appeals. The Board of ~~Adjustment Adjustments~~ shall fix a reasonable time for the hearing of all appeals, and shall reserve the right to continue the hearing of the appeal from time to time. Any party may appear in person or by authorized agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the officer. The Board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this article, to adapt the application of this article to the necessities of the case to the end that the spirit of this article shall be observed, public safety and welfare secured, and substantial justice done. A copy of the Board's decision shall be served on the appellant by the officer.

(f) Petition to superior court.

(1) Every decision of the Board of ~~Adjustment Adjustments~~ shall be subject to review by proceedings in the nature of certiorari instituted within fifteen (15) days of the date of service of the decision of the Board, but not otherwise.

(2) Any person aggrieved by an order issued by the officer or a decision rendered by the ~~Town Council Board of Commissioners~~ may petition the superior court for an injunction restraining the officer from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the officer pending a final disposition of the cause. The petition shall be filed within thirty (30) days after issuance of the order or rendering of the decision.

### **Sec. 92.13. Failure to comply with order.**

If the owner of a building or structure fails to comply with an order issued pursuant to G.S. 160D-1122 from which no appeal has been taken, or fails to comply with an order of the ~~Town Council Board of Commissioners~~ following an appeal, ~~they~~ he shall be guilty a Class 1 misdemeanor.



## Chapter 93

### Sec. 93.03. - Powers of the building inspector.

(d) To designate such other officers, agents and employees of the Town as ~~they deem~~ ~~he deems~~ necessary to carry out the provisions of this Ordinance.

### Sec. 93.05. - Procedure for enforcement.

(a) Preliminary investigation; noticed; hearing. Whenever a petition is filed with the inspector by at least five (5) residents of the Town charging that any structure exists in violation of this Ordinance or whenever it appears to the inspector, upon inspection, that any structure exists in violation hereof, ~~they~~ ~~he~~ shall, if ~~their~~ ~~his~~ preliminary investigation discloses a basis for such charges, issue and cause to be served upon the Owner of and parties in interest in such structure a complaint stating the charges and containing a notice that a hearing will be held before the inspector at a place therein fixed, not less than ten (10) nor more than thirty (30) days after the serving of said complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one (1) of the persons signing a petition relating to such structure. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the inspector.

(b) Procedure after hearing. After such notice and hearing, the inspector shall state in writing ~~their~~ ~~his~~ determination whether such structure violates this Ordinance. If the inspector determines that the dwelling is in violation ~~they~~ ~~he~~ shall state in writing ~~their~~ ~~his~~ findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve such structure or else remove or demolish the same within a specified period of time not to exceed ninety (90) days.

### Sec. 93.07. - In rem action by Inspector; placarding.

After failure of an owner of a structure to comply with an order of the inspector issued pursuant to the provisions of this ordinance, and upon adoption by the Town Council of an ordinance authorizing and directing ~~them~~ ~~him~~ to do so, as provided by G.S. 160D-1203(5) and Section 93.05(c) of this ordinance, the inspector shall proceed to cause such structure either to be repaired or else removed or demolished, as directed by the ordinance of the Town Council and shall cause to be posted on the main entrance of such structure a placard prohibiting the use or occupation of the structure. Use or occupation of a building so posted shall constitute a misdemeanor.

Each such ordinance shall be recorded in the office of the ~~Register of Deeds~~ ~~register of deeds~~ of Wake County, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. 160A-443(5).

## Chapter 93A

### Sec. 93A.02. - Definitions.

*Administrator* shall collectively mean “**Development Services Director Planning Director** of the Town of Knightdale, North Carolina” and subordinate staff **or other designee**.

~~—Gender, words having a masculine gender shall include the feminine and neuter genders.~~

~~—Inspector shall mean the Building Inspector of the Town or any authorized agent of the Inspector.~~

*Owner* Any person who alone, jointly or severally with others shall have legal title in fee simple to a building (with or without accompanying actual possession thereof) or any person in charge, care or control of any building, as owner or agent of the owners, or as executor, administrator, trustee or guardian of the estate of the owner. Any such person representing the actual owner shall be bound to comply with the provisions of this article, and of rules and regulations adopted pursuant thereto, to the same extent as if such person were the owner. ~~shall mean any person who alone, jointly, or severally with others:~~

~~—(1) Has title to any dwelling, dwelling unit or rooming unit, with or without accompanying actual possession thereof; or~~

~~—(2) Holds a mortgagee of record for any dwelling, dwelling unit or rooming unit; or~~

~~—(3) Has charge, care or control of any dwelling, dwelling unit or rooming unit, as owner or agent of the actual owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the actual owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this ordinance, and with the rules and regulations adopted pursuant thereto, to the same extent as if he was the owner.~~

*Rooming house* shall mean any dwelling, or that part of any dwelling containing one (1) or more rooming units, in which space is rented or leased by the owner or operator to three (3) or more persons who are not **spouse** husband or wife, **child** son or daughter, **parent** mother or father, or **sibling** sister or brother of the owner or operator.

*Rubbish* **Combustible or noncombustible waste materials, except garbage and ashes, including, but not limited to, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass or dust.** ~~shall mean nonorganic waste materials. The term shall include paper, rags, cartons, boxes, wood, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, and dust.~~

Unfit for human habitation shall mean that conditions exist in a dwelling, dwelling unit, rooming house or rooming unit which violate or do not comply with one (1) or more of the minimum standards of fitness or one (1) or more of the requirements established by this chapter, as determined by the **Inspector Administrator**.

#### **Sec. 93A.05. - Minimum standards for basic plumbing, heating and electrical equipment and facilities.**

- (a) Plumbing system.

(5) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same **dwelling unit**. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

**Sec. 93A.09. - Minimum standards for control of insects, rodents and infestations.**

(c) Infestation. Every owner and occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one (1) dwelling unit shall be responsible for such extermination whenever **their his**-dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonably insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two (2) or more dwelling units, extermination shall be the responsibility of the owner.

**Sec. 93A.10. - Minimum standards applicable to rooming houses; exceptions.**

(c) Sanitary conditions. The owner and/or operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the rooming house. **They He** shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.

**Sec. 93A.11. - Responsibilities of owners and occupants.**

(b) Cleanliness. Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which **they occupy and control.**  
~~he occupies and controls.~~

**Sec. 93A.12. - Powers and duties of the ~~Land Use~~ Administrator.**

(f) To appoint and fix the duties of such officers, agents, and employees as **they deem he deems** necessary to assist in carrying out the purposes of this chapter, and to delegate any of **their his**-functions and powers to such officers, agents and employees; and

**Sec. 93A.13. - Inspections; duty of owners and occupants.**

The following shall constitute duties of owners and occupants of a dwelling or dwelling unit with respect to inspections:

(a) For the purpose of making inspections, the ~~Inspector~~ **Administrator** is hereby authorized to enter, examine and survey all dwellings, dwelling units, rooming houses, rooming units and the premises associated therewith only when there is reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist in the residential building or structure. When the ~~Inspector~~ **Administrator** determines that a safety hazard exists in a dwelling unit within a multifamily building, which, in the opinion of the ~~Inspector~~ **Administrator** poses an immediate threat to the occupant, the ~~Inspector~~ **Administrator** may inspect in the absence of a specific complaint and actual knowledge of the unsafe condition, additional dwelling units to determine whether the same safety hazard exists.

(b) Reasonable cause shall mean any one of the following conditions:

(1) The landlord or owner has a history of more than two (2) verified violations of the housing code within a 12-month period;

(2) There has been a complaint that substandard conditions exist within the building or there has been a request that the building be inspected;

(3) The ~~Inspector~~ **Administrator** has actual knowledge of an unsafe condition within the building; and/or

(4) Violations of the housing code are visible from off the property.

(c) The owner or occupant of every dwelling, dwelling unit, rooming house or rooming unit, or the person in charge thereof, shall give the ~~Inspector~~ **Administrator** free access to such dwelling, dwelling unit, rooming house or rooming unit and its premises for the purposes of such inspection, examination and survey when reasonable cause for inspection exists or the subject dwelling is in a multifamily building as described in subsection (a).

(d) Every occupant of a dwelling, dwelling unit, rooming house or rooming unit shall give the owner thereof, or ~~their~~ **his**-agent or employee, access to any part of such dwelling or dwelling unit and its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this ordinance or with any lawful order issued pursuant to the provisions of this ordinance.

When permission to inspect a dwelling or its premises is denied by the owner/occupant, the ~~Building Inspector~~ **Administrator** must obtain a warrant to inspect under state law. State law provides for the issuance of warrants for the conducting of inspections authorized by law.

~~Generally, the~~ **The** consent of the tenant/occupant who is in actual possession and control of the premises is sufficient to authorize an inspection without a warrant, notwithstanding the fact that the owner had objected to the warrantless search. When faced with a situation where permission to inspect is denied, ~~Building Inspectors~~ **the Administrator** may seek the advice of the Town Attorney.

#### **Sec. 93A.14. - Procedure for enforcement.**

(a) Preliminary investigation; notice; hearing. Whenever a petition is filed with the Administrator by a tenant or occupant, a party of interest, a public authority or agency or at least five (5) residents of the Town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the ~~Inspector~~ **Administrator** that any dwelling or dwelling unit may be unfit for human habitation, ~~they~~ **the Administrator** shall, if their preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a notice of violation stating the charges and containing a notice that a hearing will be held before the ~~Inspector~~ **Administrator** at a place therein fixed, not less than ten (10) nor more than thirty (30) days after the serving of the complaint. Such notice shall be served in the manner prescribed in G.S. 160D-1206.

The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint before the ~~Inspector~~ Administrator. Notice of such hearing shall also be given to at least one (1) of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the ~~Inspector~~ Administrator. The ~~Inspector~~ Administrator shall have discretion to make findings concerning the matters addressed at the hearings.

In the event the condition of the dwelling, or dwelling unit creates an imminent risk to the health and safety of occupants or the public, the Administrator is empowered to take any emergency measure provided by law to protect the public or the occupants of the dwelling or dwelling unit.

(b) Lis pendens. Upon issuance of a notice of violation and notice of hearing pursuant to this section, the ~~Inspector~~ Administrator, in their sole discretion, may cause the filing/recording of a notice of lis pendens or other appropriate notice in the office of the Clerk of Superior Court and Register of Deeds of Wake County. The lis pendens shall be cross-indexed in accordance with indexing procedures of the North Carolina General Statutes. The ~~Inspector~~ Administrator shall cause a copy of the notice of lis pendens to be served upon the owners and other parties in interest at the time of filing in accordance with G.S 160D-1206.

Upon compliance with the requirements of any order based upon such complaint and hearing the ~~Inspector~~ Administrator shall direct the Clerk of Superior Court and Register of Deeds to cancel the notice of lis pendens and shall file any documentation required by the court to cancel the lis pendens.

(c) Procedure after hearing. After such notice and hearing, the ~~Inspector~~ Administrator shall determine whether the dwelling or dwelling unit is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated. If the ~~Inspector~~ Administrator determines that the dwelling or dwelling unit is deteriorated, they he shall state in writing their his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, or improve such dwelling or dwelling unit to comply with the minimum standards established by this chapter within a specified period of time, not to exceed ninety (90) days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations, and improvements have been made.

If the ~~Inspector~~ Administrator determines that the dwelling is dilapidated, they he shall record in writing their his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order either directing and requiring the owner to repair, alter, or improve such dwelling or dwelling unit to comply with the minimum standards established by this chapter, or else to vacate and remove or demolish the same within a specified period of time not to exceed ninety (90) days. If the ~~Inspector~~ Administrator finds that repair, alteration, or improvement of such dwelling or dwelling unit cannot reasonably be accomplished or that continued occupation and residence during the term of repair is not safe for occupants, they he may require that all occupants immediately vacate the property.

(d) Failure to comply with order.

(1) In personam remedy. If the owner of any deteriorated or dilapidated dwelling or dwelling unit shall fail to comply with an order of the ~~Inspector~~ **Administrator** to repair, alter, or improve or to vacate and close the same within the time specified therein, the ~~Inspector~~ **Administrator** shall submit to the Town Council at its next regular meeting a resolution directing the Town Attorney to petition the Superior Court for an order directing such owner to comply with the order of the ~~Inspector~~ **Administrator**, as authorized by G.S. 160D-1208(e), or to vacate the dwelling pursuant to G.S. 160D-1203(3).

(2) In rem remedy. After failure of an owner of a dwelling or dwelling unit to comply with an order of the ~~Inspector~~ **Administrator** issued pursuant to the provisions of this chapter, and upon adoption by the Town Council of an ordinance authorizing and directing ~~them~~ **him** to do so, as provided by G.S. 160D-1203(4) and this chapter, the ~~Inspector~~ **Administrator** may proceed to cause such dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this chapter, or to be vacated and closed and removed or demolished, as directed by the ordinance of the Town Council.

When authorized by the Town Council, the ~~Inspector~~ **Administrator** shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation: the use or occupation of this building for human habitation is prohibited and unlawful". Occupation of a building so posted shall constitute a Class 1 misdemeanor.

(3) Summary ejectment. If an owner or occupant fails to comply with a valid order to vacate a dwelling, the ~~Inspector~~ **Administrator** may initiate proceedings to remove the occupant as provided under G.S. 160D-1203(8).

(e) Appeals from orders of ~~Inspector~~ **Administrator**. An appeal from any decision or order of the ~~Inspector~~ **Administrator** may be taken by any person aggrieved thereby. Any appeal from the ~~Inspector~~ **Administrator** shall be taken within ten (10) days from the receipt of the decision or service of the order, and shall be taken by filing with the ~~Inspector~~ **Administrator** and with the Board of Adjustment a written notice of appeal, which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the ~~Inspector~~ **Administrator** shall forthwith transmit to the ~~Board of Adjustment Land Use Review Board~~ **Board of Adjustment** all the papers constituting the record upon which the decision appealed from was made.

~~An appeal from a~~ **A** decision of the ~~Inspector~~ **Administrator** shall remain in force **during the appeal** until modified or reversed, provided that when an appeal is from a decision of the ~~Inspector~~ **Administrator** requiring the person aggrieved to perform any act, the appeal shall have the effect of suspending the requirement until the hearing by the ~~Board of Adjustment Land Use Review Board~~ **Board of Adjustment**, unless the ~~Inspector~~ **Administrator** certifies to the ~~Board of Adjustment Land Use Review Board~~ **Board of Adjustment**, after the notice of appeal is filed with ~~them~~ **him**, that by reason of the facts stated in the certificate (a copy of which shall be furnished to the appellant), a suspension of this requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a temporary restraining order or injunction **issued by a court of competent jurisdiction**. Such an order may be granted for due cause shown upon not less than one (1) day's written notice to the ~~Inspector~~ **Administrator**, by

~~the one (1) day's written notice to the Inspector, by the Board of Adjustment Land Use Review Board, or by the Wake County Superior Court~~ court upon petition made pursuant to G.S. 160D-1208.

The ~~Board of Adjustment Land Use Review Board~~ shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The ~~Board of Adjustment Land Use Review Board~~ may reverse or affirm, in whole or in part, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the ~~Inspector Administrator~~, but the concurring vote of four-fifths ( 4/5 ) members of the ~~Board of Adjustment Land Use Review Board~~ shall be necessary to reverse or modify any decision or order of the ~~Inspector Administrator~~.

The ~~Board of Adjustment Land Use Review Board~~ shall have power also in passing upon appeals, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

Every decision of the ~~Board of Adjustment Land Use Review Board~~ shall ~~may~~ be subject to review by proceedings in the nature of certiorari instituted within the Wake County Superior Court within fifteen (15) days after the written decision of the ~~Board of Adjustment, Land Use Review Board~~, but not otherwise.

(f) Petition to ~~S~~superior ~~C~~ourt for restraining order by owner. Any person aggrieved by an order issued by the ~~Inspector Administrator~~ or a decision rendered by the ~~Board of Adjustment Land Use Review Board~~ shall have the right, within thirty (30) days after issuance of the order or rendering of the decision, to petition the ~~S~~superior ~~C~~ourt for an order restraining the ~~Inspector Administrator~~ pending a final disposition of the cause, as provided by G.S. 160D-1208(d).

#### **Sec. 93A.15. - Methods of service of complaints and orders.**

Complaints or orders issued by the ~~Inspector Administrator~~ shall be served upon person(s) either personally or by registered or certified mail. If the whereabouts of such persons are unknown and the same cannot be ascertained by the ~~Inspector Administrator~~ in the exercise of reasonable diligence, the ~~Inspector Administrator~~ shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing the same at least once no later than the time at which personal service would be required under the provisions of this ordinance in a newspaper having general circulation in the Town. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

#### **Sec. 93A.16. - In rem action by ~~Inspector Administrator~~.**

Each in rem order by the ~~Inspector Administrator~~ shall be recorded in the office of the Register of Deeds in Wake County wherein the property is located, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. 160D-1203(4).

#### **Sec. 93A.17. - Costs; a lien of premises.**

As provided by G.S. 160D-1203(7), all fees, costs, and expenses associated with any repairs, alterations or improvements, or of vacating and closing, or removal or demolition, caused to be made or done by the ~~Inspector~~ Administrator pursuant to this ordinance shall be a lien against the real property upon which such cost was incurred. All such amounts shall be due and payable by the owner of the dwelling or dwelling unit within fifteen (15) days of notice mailed to the owner. Interest shall run on any amount not paid within fifteen (15) days at the rate of one (1) percent per month until fully paid. Such lien shall be filed, have identical priority, and be collected in the same manner as the lien for special assessments established by G.S. Ch. 160A, Art. 10.

**Sec. 93A.19. - Appeals/ ~~Board of Adjustment~~ Land Use Review Board (the Board).**

The ~~Board of Adjustment~~ Land Use Review Board will hear all appeals, which may be taken from decisions or orders of the ~~Inspector~~ Administrator, as provided by the Town of Knightdale Unified Development Ordinance.

**Sec. 93A.21. - Violations; penalty.**

(a) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove or demolish the same, upon order of the ~~Inspector~~ Administrator duly made and served as herein provided, within the time specified in such order. Each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense.

(c) Any owner of a dwelling except an owner who occupies the dwelling as ~~their~~ his principal place of residence, who fails to comply with an order of the ~~Code Enforcement Officer~~ Administrator to repair, alter or improve the dwelling, or to vacate and close and remove or demolish the dwelling, within the time specified in the order, shall be subject to the specifications listed ~~below~~. ~~in the Town of Knightdale Ordinance Number 08-04-07-001: Residential Rental Occupancy Permit Ordinance.~~

**93A.21 (b) Penalties:** The Town may enforce this Chapter by any one (1) or a combination of the following methods, and the institution of an action under any of these methods shall not act as an election of remedies or relieve any party from any obligation prescribed for violations of this article. When a violation continues from day-to-day, a new violation occurs each day following service of the notice or order of the violation.

1. **Civil Penalties.** Any person who shall violate or does not comply with one (1) or more of the minimum standards of fitness or one (1) or more of the requirements established by this Chapter, as determined by the Administrator, shall be subject to a Civil Penalty as follows:
  - a. **First Offense:** \$100 plus \$100 per day for each day after notice that the violation or non-compliance continues.
  - b. **Second Offense and subsequent offenses within five (5) years of the date the first offense was brought into compliance:** \$250 plus \$250 per day for each day after notice that the violation or non-compliance continues.
  - c. **\$500 for any violation resulting in injury to third persons.**



2. Equitable Remedies. As authorized by the Town Council, the Town may apply to the courts for appropriate equitable remedy not already included or provided for in this Chapter.

## Chapter 93B

### Sec. 93B.02. - Definitions.

*BOA.* The Board of Adjustment for the Town of Knightdale.

*Business affiliate.* A person who directly or indirectly ~~owns or controls~~, is ~~owned or controlled~~ by, or is under common ~~ownership or control~~ with, the owner of a probationary residential rental dwelling of any property as defined herein. Solely for purposes of this definition, the terms "owns," "is owned," and "ownership" mean ownership of an equity interest, or the equivalent thereof, of at least ten (10) percent.

~~*LURB.* The Land Use Review Board for the Town of Knightdale.~~

*Owner.* Any person who alone, jointly or severally with others shall have legal title in fee simple to a building (with or without accompanying actual possession thereof) or any person in charge, care or control of any building, as owner or agent of the owners, or as executor, administrator, trustee or guardian of the estate of the owner. Any such person representing the actual owner shall be bound to comply with the provisions of this article, and of rules and regulations adopted pursuant thereto, to the same extent as if such person were the owner. ~~Any person who alone, or jointly, or severally with others:~~

~~(a) Shall have title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or~~

~~(b) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter, and of rules and regulations adopted pursuant thereto, to the same extent as if the person were the owner; or~~

~~(c) For violations of the Housing Code, shall be a mortgagee of record.~~

Verified violation. The aggregate of all violations of housing ordinances or codes found in an individual rental unit of residential real property during a seventy-two-(72) hour period. Any violations that have not been corrected by the owner or manager within twenty-one (21) days of receipt of written notice from the Town of the violations. Should the same violation occur more than two (2) times in a twelve-(12) month period, the owner or manager may not have the option of correcting the violation. If the Housing Ordinance or Code provides that any form of prohibited tenant behavior constitutes a violation by the owner or manager of the rental property, it shall be deemed a correction of the tenant-related violation if the owner or manager, within thirty (30) days of receipt of written notice of the tenant-related violations, begins a summary ejectment action to have the tenant evicted.

### Sec. 93B.03. - Qualifying residential rental dwelling.

- (a) Required permitting.

(1) Any residential rental dwelling that has been cited for a violation of a Town Code provision, including, but not limited to, provisions concerning nuisances, noise violations, zoning requirements, or health and safety standards, if any of the following are true:

b. The violation is the fourth violation in a twelve (12) month rolling period for the same owner or the same RRD; or

**Sec. 93B.04. - Requirement to obtain and maintain license.**

(c) Subsequent owners responsible for maintenance and compliance with such permit. If the new owner of the dwelling unit is a bona fide new owner, they he or she may request that the Code Enforcement Officer remove the requirement that the dwelling have a rental occupancy permit, and:

**Sec. 93B.07. - Appeal.**

(2) Unless the Code Enforcement Officer decides to allow the requested relief based on the appeal request, the Code Enforcement Officer shall forward each appeal request to the BOA LURB for a decision on the issue. The BOA LURB shall consider both the applicable code provisions and equitable factors in resolving the appeal. If the person who files an appeal of a notice that a dwelling is qualified as an RRD shows that the owner did not cause and, with the use of reasonable measures, could not have prevented the actions or activities leading to the citations which qualified the dwelling as an RRD and that the owner is using reasonable diligence to correct such violations in a timely fashion, the BOA LURB may reverse the order or reduce the sanctions imposed.

(3) An appeal may be taken from any decision of the BOA LURB by either the owner or the Town by giving notice of appeal to the Town Council within thirty (30) days after the final decision of the BOA LURB. Notice of appeal shall be given by delivery of a written statement to the Town Manager stating the grounds for the appeal and providing the Town Manager with particular reference to the meeting at which the issue was heard by the BOA LURB. The written appeal shall identify the application, violation, or order at issue and provide the reasons the petitioner contends that it was wrongly applied. The Code Enforcement Officer shall transmit to the Town Manager all documents constituting the record upon which the decision by the BOA LURB was made.

(5) All decisions of the Code Enforcement Officer, BOA LURB, and Town Council shall be served on the petitioner.

(6) The enforcement of an order issued by the Code Enforcement Officer which includes the revocation of a rental occupancy permit shall be stayed upon the filing of an appeal and until a final order is issued by the Inspections Director, BOA LURB, or Town Council.

**Sec. 93B.08. - Administrative fees.**

(a) Administrative fee. Any person who violates this chapter shall pay an administrative fee of one hundred dollars (\$100.00) per notice of violation or order and the costs to the Town of service of orders and notices.

(b) Appeal fee. Any person who initiates an appeal concerning an alleged violation of this chapter shall pay an administrative fee of two hundred dollars (\$200.00) per ~~BOA LURB~~-appeal and a fee of two hundred dollars (\$200.00) per Council appeal.

#### Chapter 94

[No changes]

#### Chapter 95

[No changes]

#### Chapter 96

### **Sec. 96.03. Definitions.**

*Natural erosion* means the wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by ~~man~~ **humans**.

### **Sec. 96.04. Scope and exclusions.**

(b) *Exclusions from regulated land-disturbing activity.*

(1) Activities, including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to ~~man~~ **humans**, including, but not limited to:

### **Sec. 96.05. Mandatory standards for land-disturbing activity.**

(e) *Prior plan approval.* No person shall initiate any land-disturbing activity subject to this chapter unless, thirty (30) or more days prior to initiating the activity, a plan for the activity is filed with and approved by the Town. An erosion and sedimentation control plan may be filed less than 30 days prior to initiation of a land-disturbing activity if the plan is submitted under an approved express permit program. The land-disturbing activity may be initiated and conducted in accordance with the plan once the plan has been approved. The ~~Town~~ **Town** shall forward to the Director of the Division of Water Resources a copy of each plan for a land-disturbing activity that involves the utilization of ditches for the purpose of dewatering or lowering the water table of the tract.

### **Sec. 96.06. Erosion and sedimentation control plans.**

(b) *Financial responsibility and ownership.* Plans shall be disapproved unless accompanied by an authorized statement of financial responsibility and documentation of property ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or ~~his~~ **their** attorney in fact. The statement shall include the mailing and street addresses of the principal place of business of: (1) the person financially responsible; (2) the owner of the land; and (3) any registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the plan, the Act, this chapter, or rules or orders adopted or issued pursuant to this chapter. Except as provided in divisions (c) or (k) of this section, if the applicant is not the owner of the

land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity.

(d) *Environmental Policy Act document.* Any plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environment Policy Act (G.S. 113A-1 et seq.) shall be deemed incomplete until a complete environmental document is available for review. The Town shall promptly notify the person submitting the plan that the **thirty (30)**-day time limit for review of the plan pursuant to this chapter shall not begin until a complete environmental document is available for review.

(f) *Timeline for decisions on plans.* The Town will review each complete plan submitted to them and within thirty (30) days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, or disapproved. Failure to approve, approve with modifications, or disapprove a complete plan within thirty (30) days of receipt shall be deemed approval. The Town will review each revised plan submitted to them and within fifteen (15) days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, or disapproved. Failure to approve, approve with modifications, or disapprove a revised plan within **fifteen (15)** days of receipt shall be deemed approval.

(i) *Other disapprovals.*

(4) Has failed to substantially comply with state rules or local ordinances and regulations adopted pursuant to this chapter.

a. In the event that an erosion and sedimentation control plan or a transfer of a plan is disapproved by the Town pursuant to division (j) of this section, the local government shall so notify the Director of the Division of Energy, Mineral, and Land Resources within **ten (10)** days of the disapproval. The Town shall advise the applicant or the proposed transferee and the Director in writing as to the specific reasons that the plan was disapproved. Notwithstanding the provisions of Section 96.16(a), the applicant may appeal the local government's disapproval of the plan directly to the Commission.

b. For purposes of this section, an applicant's record or the proposed transferee's record may be considered for only the two **(2)** years prior to the application date.

(q) *Self-inspections.*

(2) Documentation of self-inspections performed under division (q)(1) of this section shall include:

(iii) The name, address, organization affiliation, telephone number, and signature of the person conducting the inspection and the date of the inspection shall be included, whether on a copy of the approved erosion and sedimentation control plan or an inspection report. A template for an example of an inspection and monitoring report is provided on the DEMLR website at:

<https://deq.nc.gov/about/divisions/energy-mineral-land-resources/erosion-sediment-control/forms>

~~<https://deq.nc.gov/about/divisions/energy-mineral-land-resources/erosion-sediment-control/forms>~~. The person responsible for conducting these inspections shall have or obtain at least one NCDOT recognized

erosion and sedimentation control certification. Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site.

**Sec. 96.08. Design and performance standards.**

(3) *Sediment basin design.* Sediment basins within HQW zones shall be designed and constructed according to the following criteria:

(iii) Have a minimum surface area of 325 square feet per cubic feet per second (cfs) of the twenty-five year storm (Q25) peak flow;

~~Title X~~

~~Sec. 100.01. Purpose.~~

~~The Town intends, through this chapter, to foster the development and continued operation of cable television and telecommunications systems within its jurisdiction. This chapter will contribute significantly to meeting the communications needs and desires of residents, and institutions of the Town. It will foster economic growth through the encouragement and development of a telecommunications to meet the demands of industry in an ever-changing world of technological advancements.~~

~~(Ord. No. 96-03-04-002, 3-4-96)~~

~~Sec. 100.02. Definitions.~~

~~For the purpose of this article, the following terms, phrases, words, abbreviations and their derivations shall have the meaning given herein, when not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, words in the singular number include each of the other genders. The words "shall" and "must" always are mandatory and not merely directory.~~

~~—Access. "Access" shall mean any programming or channel designated for use by any person other than the company.~~

~~—Access facilities. "Access facilities" shall mean any channel capacity, facilities, or equipment designated for public educational, or governmental use and facilities and equipment for the use of such channel capacity.~~

~~—Basic service. "Basic service" shall mean any service tier which includes the retransmission of local television broadcast signals and any public educational and governmental programming required to be carried on the basic tier.~~

~~—Town Council. "Town Council" shall mean the Town Council of the Town of Knightdale, North Carolina or its designee.~~

~~—Cable telecommunications. "Cable telecommunications" shall mean cable television and telecommunications.~~

~~—Cable telecommunications service. "Cable telecommunications service" shall mean the provision of improved television reception or telecommunications intelligence or entertainment service or any lawful telecommunications services, to the public for distributing the same by wire or fiber optic cable or other means.~~

~~—Cable telecommunications system. "Cable telecommunications system" shall mean a system of antennas, cable, fiber optics, wires, lines, towers, wave guides, or other conductors, converters, equipment or facilities, designated and constructed for the purpose of producing, originating, amplifying, and distributing any type of lawful telecommunications service including, but not limited to, audio, video and other forms of electronic, digital or electronic signals.~~

~~—Channel. "Channel" shall mean a 6 MHZ band or frequencies in the electromagnet spectrum (or any other means of transmission, including but not limited to optical fibers, which is capable of carrying the equivalent signal or signals), and includes uses of all or any portion of such band of frequencies.~~

~~—Construction completion date. "Construction completion date" shall mean the date, after receiving a request from franchises, on which the Town or its designee issues a certificate of completion to a franchisee. That certificate shall not be unreasonably withheld.~~

~~—FCC. "FCC" shall mean the Federal Communications Commission or any successor agency.~~

~~—Franchise. "Franchise" shall mean and include any authorization granted pursuant to federal and state law and this chapter in terms of a franchise privilege, permit, license or otherwise to construct, or have constructed, operate and maintain a cable telecommunications system. Any such authorization, in whatever term granted, and the fees charged thereunder shall neither supersede nor take the place of any license, license fee or permit authorization which might otherwise be required for the privilege of transacting and carrying on cable telecommunications service under any other Town Ordinance licensing or regulating business within such areas.~~

~~—Full cable telecommunications service. "Full cable telecommunications service" shall mean all cable telecommunications services.~~

~~—Grantee or franchisee or company. "Grantee" or "franchisee" or "company" shall mean the person, firm or corporation to whom a franchise, as herein above defined, is granted by the Town Council under this chapter, and the lawful successor, transferee or assignee of said person, firm or corporation.~~

~~—Gross revenues. "Gross revenues" shall mean any and all compensation received by grantee (or any firm in which grantee has part ownership) as a result of the exercise of a franchise granted pursuant to this chapter, excluding any franchise fees, privilege or use taxes, equipment deposits, bad debts, local access fees, sales, excise or other taxes collected on behalf of any state, city or other governmental unit, and refunds to subscribers by grantee. Notwithstanding the foregoing, revenues received by grantee for the provision of data transmission, point to point telecommunications, telephone or telephone services shall be included in "gross revenues" include by way of illustration, but are not limited to, regular subscriber service fees, installation fees, disconnect and reconnect fees, pay TV, leased channel revenues, advertising, revenues, converter and remote control rental revenues, or any other receipts.~~

~~—Initial service area. "Initial service area" shall mean that geographical area within the Town as set forth in a franchise granted pursuant to this chapter.~~

~~—Knightdale. "Knightdale" shall mean the Town of Knightdale or the area within the present and future territorial Knightdale limits of the Town of Knightdale and such territory outside of the Town which the Town has jurisdiction or control by virtue of any law.~~

~~—Person. "Person" shall mean any person, firm, partnership, association, corporation or organization of any kind.~~

~~—Service package or tier of service. "Service package" or "tier of service" shall mean one or more communications channels or services which are offered as a unit by the grantee or subscribers and for which a separately identifiable rate or charge is made.~~

~~—Street. "Street" shall mean the surface of and the space above and below any publicly owned or maintained property or right of way, street, road, highway, freeway, land, path, alley, court, sidewalk, parkway or drive, now or hereafter existing as such with the Town.~~

~~—Subscriber. "Subscriber" shall mean any person or entity lawfully receiving any portion of the cable telecommunications service provided by a grantee pursuant to a franchise granted in accordance with this chapter.~~

~~(Ord. No. 96-03-04-002, 3-4-96)~~

~~Sec. 100.03. —Application fee and application bond.~~

~~—(a) Application fee. Applicants for a franchise hereunder shall pay a nonrefundable "application fee" to the Town of three thousand dollars (\$3,000.00) which sum shall be due and payable to the Town upon submission to the Town of any application for a franchise. The Town Council may waive the fee for an incumbent operator seeking a franchise renewal pursuant to the informal rules provided in Section 626 of the Cable Communications Policy Act of 1984.~~

~~—(b) Review qualifications. The Town Council shall review all applicant's legal, character, financial, technical and other qualifications, and the adequacy and feasibility of its construction arrangements and its compliance with the terms of this chapter. If the Town Council finds the application is in compliance with this chapter and is satisfied with the ability of the applicant to perform and is satisfied with the legal, character, financial and technical qualifications and construction arrangements, the Town shall grant applicant a franchise.~~

~~(Ord. No. 96-03-04-002, 3-4-96)~~

~~Sec. 100.04. —Franchise required.~~

~~No person may operate a cable telecommunications system in the Town without first obtaining a franchise as provided in this chapter. Any franchise granted shall be nonexclusive. Grantor specifically reserves the right to grant such additional franchises as it deems appropriate subject to applicable state and federal law.~~

~~(Ord. No. 96-03-04-002, 3-4-96)~~

~~Sec. 100.05.—Term of franchise.~~

~~The duration of a franchise granted pursuant to this chapter shall not be more than twenty (20) years from the effective date.~~

~~(Ord. No. 96-03-04-002, 3-4-96)~~

~~Sec. 100.06.—Termination and expiration of franchise.~~

~~—(a) The Town reserves the right to terminate, at any time, any franchise granted hereunder and rescind all rights and privileges associated therewith in the event that:~~

~~—(1) Grantee has not complied in some material respect with any provisions of this chapter or of any supplemental written agreement entered into by and between the Town and the grantee; or in some material respect of any terms or conditions of any franchise or permit issued hereunder; or~~

~~—(2) Grantee has made a material, false statement in the application for the franchise, knowing it to be false; or~~

~~—(3) Grantee, contrary to the best interest of public convenience and welfare, is not providing subscribers with regular, adequate, and proper service; consistent with the terms of any franchise granted hereunder; or~~

~~—(4) Grantee becomes insolvent, enters into receivership or liquidation, files for bankruptcy or for composition of creditors, is unable or unwilling to pay his debts as they mature or is in financial difficulty of sufficient consequence so as to jeopardize the continued operation of the cable telecommunications system unless the grantee is in due process of contesting such debts; or~~

~~—(5) Grantee violates any FCC order or ruling or the order or ruling of any other governmental body having jurisdiction over the grantee unless the grantee is lawfully contesting the legality of applicability of such order.~~

~~—(b) In the event that the Town shall decide to terminate for cause a franchise granted hereunder, it shall give the grantee sixty (60) days written notice of its intention to terminate and stipulate the cause. If during the sixty-day period the cause shall be cured to the satisfaction of the Town, the Town shall declare the notice to be null and void. In any event, before a franchise may be terminated the grantee must be provided with an opportunity to be heard before the Town Council in accordance with the due process procedures. If a grantee's franchise is terminated, the decision shall be subject to judicial review as provided by law.~~

~~—(c) In the event that operation of the cable telecommunications system is discontinued for any reason for a continuous period of thirty (30) days or the franchise held by a grantee to construct, operate or maintain a cable telecommunications system is terminated by the Town Council, pursuant to the terms of this chapter, and all negotiations to settle the differences between the parties have failed (provided, however, that such negotiations shall not be required), the Town Council may advertise and seek another to operate the system. If a franchise is granted to another person, the terminated franchisee may be required to sell the cable telecommunications system to the new franchisee at a price to be determined by three (3) competent, independent appraisers, one each appointed by Town Council. The appraisers to~~



~~be appointed shall use the then best methods of appraising to determine this value. The cost of the appraisers shall be shared equally by the terminated franchisee and the new franchisee. The terminated franchisee shall execute such deeds, bills of sale and other documents as may be necessary to effectuate this sale. The terminated franchisee shall fully cooperate with these appraisers.~~

~~—(d) In the event of the early termination of the franchise as herein provided, the Town shall have the option to purchase the cable business for fair market value of said capital improvements. The Town may also require the grantee to sell any capital improvements as provided in this section to any successor grantee as set forth in subsection (c) hereof. In any event, the Town may require the grantee to continue to provide service for a reasonable period not to exceed six (6) months in order to assure uninterrupted service to subscribers.~~

~~—(e) The Town shall give to franchisee notice of its intent to exercise the option to purchase at least one hundred eighty (180) days prior to the expiration of the term of this franchise and/or such renewals thereof as are authorized. If the franchise is terminated or expires, notice of intent to exercise the option to purchase shall be contained in the notice of intention to terminate.~~

~~—(f) Should the grantee's franchise be terminated or expire, and not purchased as above provided, and at such times as the successor is ready to provide service, but no later than six (6) months from termination or expiration, the grantee shall begin removal of all property owned by it, and placed on a public or private right of way unless permitted by the Town to abandon said property in place. In so removing such plants, structures, and equipment, the grantee shall refill, at its own expense, any excavation made by it and shall leave such public and private places in as good condition as that prevailing prior to the company's installation of its equipment and appliances without affecting, altering or disturbing in any way the electric distribution or telephone cable, wire, or attachments or any poles. The Town Council or other officer or his appointee, shall inspect and approve the condition of such public ways and public places and cables, wire attachments, and poles after removal. Liability insurance and indemnity provided for herein shall continue in full force and effect during the entire period of removal.~~

~~In the event of any such removal, the grantee shall restore the public right of way to a condition satisfactory to the Town. Upon abandonment, which shall only be done as the Town directs, the grantee shall transfer ownership of all such abandoned property to the Town and submit to the Town an instrument in writing, subject to the approval of the Town Attorney, effecting such transfer.~~

~~If the Town or the State is forced to remove the system, the work shall be done at the expense of the terminated grantee.~~

~~(Ord. No. 96-03-04-002, 3-4-96)~~

~~Sec. 100.07. —Transfer or assignment of cable telecommunications system.~~

~~—(a) No transfer of control of a franchise or assignment of a franchise to operate a cable telecommunications system other than a pro forma transfer or assignment to a parent or wholly owned subsidiary corporation or other form of organization shall take place, whether by force or voluntary sale, lease, mortgage, assignment, encumbrance, foreclosure, attachment, merger, or other form of~~

~~disposition, without prior notice to and approval by the Town Council. The notice shall include full identifying particulars of the proposed transaction and the Town Council shall act by resolution. The Town Council shall have one hundred twenty (120) days after the receipt of the notice and all supporting documents within which to approve or disapprove a transfer of control or assignment of franchise; if the proposed transfer or assignment is not acted upon within one hundred twenty (120) days, approval shall be deemed to have been given.~~

~~—(b) Notice of any such proposed transfer or assignment, together with copies of all documents pertaining thereto shall be in writing filed with the Town Clerk. The proposed transferee or assignee shall agree in writing to comply with all provisions of this chapter and such other provisions and requirements as the Town Council might require.~~

~~—(c) For the purpose of this section the term "control" is not limited to majority stock ownership, but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of persons of ten (10) percent of the voting shares of the company.~~

~~—(d) In the absence of extraordinary circumstances, the Town Council will not approve any transfer or assignment of the franchise before completion of initial construction of the energized system or within the first two (2) years of operation thereafter.~~

~~(Ord. No. 96-03-04-002, 3-4-96)~~

~~Sec. 100.08. — [Reserved.]~~

~~—Editor's note— Ord. No. 20-12-16-003, adopted Dec. 16, 2020, repealed § 100.08, which pertained to franchise and other fees.~~

~~Sec. 100.09. — Limitations of franchise.~~

~~—(a) In addition to the limitations otherwise herein appearing, the franchise is subject to the following limitations: Franchisees shall at all times during the life of a franchise hereunder be subject to all lawful exercise of the police power by the Town and other duly authorized regulatory state and federal bodies and shall comply with any and all ordinances which the Town has adopted or shall adopt applying to the public generally, and shall be subject to all laws of the state, and the United States.~~

~~—(b) Time shall be of the essence of any franchise granted hereunder. Franchisees shall not be relieved of their obligations to comply promptly with a provision of this chapter by the failure of the Town to enforce prompt compliance. Failure of the Town to enforce any breach by the franchisee shall not constitute a waiver by the Town.~~

~~—(c) Any franchise hereunder shall not relieve a franchisee of any obligations under any preexisting pole or conduit use agreements it may have with the Town, a utility company, or others maintaining poles or conduits in the streets of the Town.~~

~~—(d) Any poles, cable, electronic equipment or other appurtenances of a franchisee to be installed in, under, over, along, across or upon a street shall be so located so as to cause minimum interference with the public use of the street and to cause minimum interference with the rights of other users of the streets~~

or of property owners who adjoin any of the streets. All such installments in or upon property owned or controlled by the Town shall be subject to the prior approval of the Town.

(e) In the event of disturbance of any public or private property by a franchisee, it shall at its own expense and in a manner approved by the Town, replace and restore such public and private property in as good a condition as before the work causing such disturbance was done.

(f) Franchisees shall construct, maintain and operate their cable telecommunications system so as to cause minimum inconvenience to the general public. All excavations shall be properly guarded and protected and shall be required and the surface restored promptly after completion of the work at franchisee's sole cost and expense.

(g) Franchisees shall, upon reasonable notice from any person holding a building moving permit issued by the Town, temporarily alter their facilities to permit the moving of such building. The actual cost of such altering shall be borne by the person requesting the altering and franchisees shall have the right to request payment in advance. For the purposes of this chapter, reasonable notice shall be construed to mean written notice received by the franchisee at least seventy-two (72) hours prior to the move.

(h) If at any time in case of fire or disaster in the Town it shall become necessary in the judgment of the Town Manager or the Chief of the Fire Department or their designee to cut or move any of the wires, cables, amplifiers, appliances, or appurtenances thereto of a franchisee, such cutting or moving may be done and any repairs rendered necessary thereby shall be made by franchisee at no expense to the Town.

(Ord. No. 96-03-04-002, 3-4-96)

Sec. 100.10. Additional Town rights in franchise.

(a) The Town may from time to time add to or modify or delete provisions of this chapter as it shall deem necessary in the exercise of its regulatory powers provided that such additions or revisions are reasonable and in keeping with the public interest and welfare. Such additions or revisions shall be made only after a public hearing for which franchisees shall have received written notice at least thirty (30) days prior to such hearing. In the event of a conflict between any provision of this chapter (or amendment to it) and a franchise granted pursuant hereto, the provisions of the franchise shall control.

(b) The Town reserves the right upon reasonable notice to require the grantee at his own expense to protect, support, temporarily disconnect, relocate or remove from the Town's streets any property of the grantee by reason of traffic conditions, public safety, street construction or excavation, change or establishment of street grade, installation of sewers, drains, water pipes, power of communication lines, tracts, or other types of structure or improvements by governmental agencies or any structures of public improvement. Reasonable notice for this provision of the chapter shall be construed to mean at least thirty (30) days except in the case of emergencies where no specific notice period shall be required.

(c) In the event of the failure by the grantee to complete any work required by subsection (b) above or any work required by Town Law or Ordinance within the time established and to the satisfaction of the Town, the Town may cause such work to be done and the grantee shall reimburse the Town the costs thereof within thirty (30) days after receipt of an itemized list of such cost.

~~—(d) The Town reserves the right, in the event of an emergency or disaster, to require the grantee to make available to the Town Manager, or his appointee, at this request, grantee's facilities at no cost, for emergency use during such emergency or disaster period.~~

~~—(e) The Town reserves the right during the life of any franchise granted hereunder to have access at all reasonable hours to the grantee's plans, contracts and engineering, accounting, financial, statistical, customer and service records relating to the property and the operations to be kept hereunder upon reasonable request.~~

~~—(f) The Town reserves the right during the life of any franchise granted hereunder, to install and maintain free from charge upon the poles and conduits of the grantee any wire and pole fixture necessary for municipal networks such as police and fire, on the condition that such installations and maintenance thereof do not interfere with the operations of the grantee.~~

~~—(g) The Town reserves the right during the life of any franchise granted hereunder, the reasonably inspect and supervise at the grantee's cost, all construction or installation work performed subject to the provisions of the chapter to insure compliance with the terms of the chapter. The Town may also perform measurements upon and randomly inspect any portion of a grantee's system to ensure compliance with the technical standards under which the grantee is authorized to operate. Upon the Town's request, the grantee will perform the tests, submitting the results to the Town.~~

~~—(h) The Town reserves the right during the life of any franchise granted hereunder, upon ninety (90) days notice, to hold a public hearing for the express purpose of reviewing the general and specific performance of the grantee with regard to all franchise provisions contained herein or in the future adopted by the Town.~~

~~—(i) Neither the granting of any franchise nor any governing provision of such franchise shall constitute a waiver or bar to the exercise of any governmental right or power of the Town.~~

~~—(j) Nothing in this chapter shall in any way or to any extent be construed to waive, modify or abridge the Town's right of eminent domain in respect to a franchisee.~~

~~—(k) Any right or power in, or duty impressed upon any officer, employee, department or board of the Town shall be subject to transfer by the Town Council by law to any other officer, employee, department or board. The Town reserves the rights not specifically granted herein, and the enumeration of the rights herein shall not be construed to be a limitation of any right or power the Town may otherwise have.~~

~~—(l) The Town shall have the authority to order a hearing every five (5) years on the provision of additional capacity. If after a hearing, the Town determines:~~

~~—(1) That a requirement for additional capacity exists; and~~

~~—(2) That consideration has been made or will be made for adequate rates to allow the company a fair rate of return on its additional investment.~~

~~(Ord. No. 96-03-04-002, 3-4-96)~~

~~Sec. 100.11.— Service area.~~

~~The franchisee of any franchise hereunder is empowered to provide service to all potential subscribers now or in the future who are located within such portion or portions of the Town as are contained in the franchise.~~

~~(Ord. No. 96-03-04-002, 3-4-96)~~

~~Sec. 100.12.— Emergency alert override system.~~

~~The company shall incorporate into its cable telecommunications systems, the capacity which will permit the Town, in time of emergency, to override the audio portion of all channels simultaneously, by telephone or other communicating medium to be provided by the company.~~

~~—(a) The company shall designate a channel which will be used for emergency broadcasts of both audio and video.~~

~~—(b) The company shall cooperate with the Town in the use and operation of the emergency alert override system.~~

~~—(c) Franchises shall comply with all FCC Rules relating to the provision of emergency messages under the emergency alert system.~~

~~(Ord. No. 96-03-04-002, 3-4-96)~~

~~Sec. 100.13.— Interconnection.~~

~~The company shall interconnect its cable system with any or all other cable systems in nearby areas; upon the directive of requirement, the company shall familiarize itself with the technical demands necessary to cause such interconnection.~~

~~—(a) Interconnection of the systems may be done by direct cable connection, microwave link, satellite, or other appropriate method.~~

~~—(b) Upon receiving a directive from the Town to interconnect, the company shall immediately initiate negotiations with the other affected system or systems in order that all costs may be shared equitable among cable companies for both construction and operation of the interconnection link. Such interconnection shall be made within the time limit established by the Town.~~

~~—(c) The company may be granted reasonable extensions of the time to interconnect, or the Town may rescind its order to interconnect upon petition by the company to the Town. The Town shall grant the request, if it finds the company has negotiated in good faith and has failed to obtain approval from the other affected systems, or the cost of interconnection would cause an unreasonable or unacceptable increase in subscriber rates.~~

~~—(d) The company shall cooperate with any interconnection corporation, regional interconnection authority or county, state and federal regulatory agency established for the purpose of regulating, financing, or otherwise providing for the interconnection of cable systems beyond the boundaries of the Town. Further, the company will cooperate with other cable telecommunications system operators in an~~

attempt to standardize the number of channels likely to be interconnected, to standardize a suitable frequency plan that would be compatible with existing microwave coverage in the area that would permit the maximum number of systems to interconnect, and to standardize the actual channel assignments.

~~—(e) The company shall design and operate the system so as to facilitate interconnection as state above.~~

~~(Ord. No. 96-03-04-002, 3-4-96)~~

~~Sec. 100.14. — Public, educational and governmental access.~~

~~The Town shall have the right to establish an authority or commission to administer for the Town all community media (access) activities. The Town may establish, consistent with federal and state law, requirements in franchises with respect to the designation and use of channel capacity of a franchisee's cable telecommunications system for public, educational and governmental access.~~

~~(Ord. No. 96-03-04-002, 3-4-96; Ord. No. 20-12-16-003, 12-16-20)~~

~~Sec. 100.15. — Channels, new developments and access utilization.~~

~~The Town shall have the authority to order a public hearing from time to time on the provision of channel capacity for public bandwidth on the network. If after a hearing, the Town determines:~~

~~—(a) That there exists a reasonable demand for additional bandwidth; and~~

~~—(b) That provisions have been made to allow the company a fair rate of return on its investments, the Town shall order the company to provide such additional capacity within a reasonable amount of time. If the Town finds that additional public bandwidth is desirable, the company shall within three (3) months from receipt of written notice from the Town make additional bandwidth available.~~

~~(Ord. No. 96-03-04-002, 3-4-96)~~

~~Sec. 100.16. — Rights of individuals.~~

~~—(a) Franchisees shall not deny service, or otherwise discriminate against subscribers or citizens, on the basis of race, color, religion, national origin, age, gender, disability, family status, marital status, veteran status, or sexual orientation. Franchisees shall comply at all times with all other applicable federal, state and local laws relating to nondiscrimination in the provision of goods and services.~~

~~—(b) Franchisees shall adhere to applicable equal employment opportunity requirements of federal and state law.~~

~~—(c) In the course of providing their services, franchisees shall take reasonable steps to prevent the invasion of a subscriber's right of privacy as such right is defined by applicable federal and state law.~~

~~(Ord. No. 96-03-04-002, 3-4-96)~~

~~Sec. 100.17. — Unlawful connections and theft of service.~~

~~—(a) It shall be unlawful for any person, firm or corporation to attach or maintain an electronic, mechanical or other connection to any cable, wire, decoder, converter, descrambler, devise or equipment~~

~~of a cable telecommunications system or to remove, tamper with, modify or alter any cable, wire, decoder, converter, descrambler, device or equipment of a cable telecommunications system for the purpose of intercepting or receiving any programming or service transmitted by such cable telecommunications system for which such person, firm or corporation has not been authorized by the cable telecommunications system to receive.~~

~~—(b) It shall be unlawful for any person, firm or corporation without the authorization of a cable telecommunications system, to distribute, sell, attempt to sell or possess for sale any converter, decoder, descrambler, device or kit or other equipment that is designated to decode or descramble any encoded or scrambled signal transmitted by such cable telecommunication systems.~~

~~(Ord. No. 96-03-04-002, 3-4-96)~~

~~Sec. 100.18. — Liability and indemnification.~~

~~—(a) It shall be expressly understood and agreed by and between the Town, employees and officials and any grantee hereunder that the grantee shall save the Town, its employees and officials harmless and indemnify it and then from all loss sustained by the Town, its employees and officials on account of any suit, judgment, execution, claim or demand whatsoever including but not limited to copyright infringement and all other damages arising out of the award of a franchise on the installation or operation or maintenance of the cable telecommunications system authorized herein, whether or not any act of omission complained of is authorized, allowed or prohibited by this chapter and any franchise granted hereunder.~~

~~—(b) The grantee shall pay and by its acceptance of any franchise granted hereunder agrees that it will pay all expenses incurred by the Town, employees and officials in defending itself with regard to all damages and penalties mentioned in subsection (a) above. These expenses shall include all reasonable out of pocket expenses, such as consultant or attorney fees, and shall also include the reasonable value of any services rendered by the Town Attorney or his staff or any other employees of the Town.~~

~~(Ord. No. 96-03-04-002, 3-4-96)~~

~~Sec. 100.19. — Filing and communications with regulatory agencies.~~

~~The grantee shall simultaneously file and maintain with the Town Council copies of all petitions, applications and communications, relative to any franchise granted pursuant to this chapter, transmitted by the grantee to, or received by the grantee from all federal and state regulatory commissions or agencies having competent jurisdiction to regulate the operations of any broad band telecommunications network authorized hereunder.~~

~~(Ord. No. 96-03-04-002, 3-4-96)~~

~~Sec. 100.20. — Miscellaneous provisions.~~

~~—(a) Compliance with laws. Grantee agrees to comply fully with local ordinances, state and federal laws, and with all rules issued by regulatory agencies now or hereafter in existence.~~

~~—(b) Severability. If any section, sentence, clause or phrase of the chapter is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity of the remainder of this chapter, and any portions in conflict are hereby repealed. Provided, however, that in the event that the FCC declares any section invalid, then such section will be renegotiated by the Town and the grantee.~~

~~—(c) Captions. The captions to sections are inserted solely for information and shall not affect the meaning or interpretation of the chapter.~~

~~—(d) No recourse against the Town. The grantee shall have no recourse whatsoever against the Town or its officers, boards, commissioners, agents, or employees for any loss, cost, expense or damage arising out of any provision or requirement of this chapter or because of its enforcement.~~

~~—(e) Non-enforcement. The grantee shall not be relieved of its obligation to comply promptly with any of the provisions of the franchise by any failure of the Town to enforce prompt compliance.~~

~~—(f) This chapter and any disputes arising from its adoption, or from any franchise granted pursuant thereto shall be governed by the laws of the state and the Town consistent with applicable FCC Rules and Regulations required to be observed in the enforcement of this chapter.~~

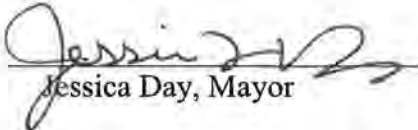
~~—(g) Conflict. This chapter shall not be deemed conclusive as to the terms and conditions of any franchise hereinafter issued hereunder. The final terms and conditions of such franchise shall be determined by the franchise ordinance.~~

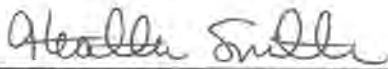
~~—(h) Franchise require. It shall be unlawful for any person, firm or corporation to construct, operate or maintain a cable telecommunications system in the Town as defined without a franchise.~~

~~—(i) New franchises. The provisions of this chapter shall apply only to franchises issued after the effective date of this chapter. Any previously existing franchise shall comply with the chapter in effect at the time the franchise was granted.~~

**NOW, THEREFORE, BE IT ORDAINED** that the above sections of the Town of Knightdale Code of Ordinances are hereby amended effective immediately.

This the 20<sup>th</sup> day of November, 2024

BY:   
Jessica Day, Mayor

ATTEST:   
Heather Smith, Town Clerk